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Indian Bureaucracy and Police Force: Dimensions of Institutional Corruption

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It was July. Mussoorie, the queen of hill stations in U.P. was lush green, washed with the seasonal monsoon showers. Snow clad mountain peaks occasionally peeped through the gaps in floating clouds as the rains stopped. Charle Ville, Jaipur House, Savoy Annexe, Happy Valley lodges—all were spruced up to receive the young entrants to the All India Services for the next four months who would be there for the foundational course at the National Academy of Administration of India; and they had started coming. They came from all the states of the vast country, from the snowy Ladakh in the north to the southern tip of Kanyakumari washed by the Indian Ocean, from Arunachal Pradesh bordering China in the east to the Rann of Kutch overlooking Pakistan in the west. Young eager minds looking forward to their tryst with a new chapter of life full of anticipation of great things, may be moulding the desired shape of the destiny of the nation for the next three or four decades! Gone were the days of burning night oil, passing anxious moments about how they had fared in the exams, apprehensions about the future. Eyes bright, spring in their steps, wonderful arrangements for stay, ample scope for indoor and outdoor activities—life couldn't have been better.

   While the majority of them settled down to a regime of self-restraint in the atmosphere of uninhibited freedom with everything within the reach beyond the routine activities of the Academy, some as it happens, wanted to cross the unmarked line on their own - just for fun unlimited. One of them, a

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Belongs to the 1966 Batch (19th RR), West Bengal Cadre.

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scion of a highly well-to-do family became far advanced in alcoholic pursuits, and no friendly advices, nor remonstrations could stop him. Every morning brought him hell, and every evening, a call to paradise. The obvious result was a visit to the medical room and a chat with the doctor. The result of the encounter transpired beyond all logic. Not only he promptly refused to go by the doctor's advice involving a change in his life-style, his retort was he would stick to his own pursuits and do whatever he felt like doing - it was for the doctor to ensure his good health! Some had a hearty laugh, some sniggered,--but none could have it in their furthest imagination that this practical joke would be played on them for the rest of their career, and they would remain at the receiving end.

Paradox of Democracy:

India became a democracy in the 1950s. As resolved by the people of India, it first emerged as a sovereign democratic republic and as the time progressed it became socialist and secular as well. It was felt by the time that democracy was the best form of government, a time-tested one that could withstand two world wars within a period of two decades against states having an authoritarian regime. Moreover the ideals of liberty equality and fraternity as well as the different categories of human rights were well protected in the system. However by the Sixties, contrary voices pointing out its failings had started to appear. Bernard Crick in his book In Defence of Politics [Weidenfeld and Nicolson: London 1962 pp 51] had this to say—'Democracy is perhaps the most promiscuous word in the world of public affairs. She is everybody's mistress and yet somehow retains her magic even when a lover sees that her favours are being, in his light, illicitly shared by many another. Indeed even amid our pain at being denied her exclusive fidelity, we are proud of the adaptability to all sorts of circumstances, to all sorts of company...(even the communists) are democratic in the sound historical sense of a majority consenting to be ruled in a popular way.'

  A leading article in The Times, 16 November 1961 had this to say; Who has not often felt the distaste with democratic politics which Salazar expressed when he said that he 'detested politics from the bottom of his heart; all those noisy and incoherent promises, the impossible demands , the hotchpotch of unfounded ideas and impracticable plans.... opportunism that cares neither for truth nor justice, the inglorious chase after unmerited fame, the unleashing of uncontrollable passions, the exploitation of the lowest instincts, the distortion of facts...all that feverish and sterile fuss'?

How true it came for India! And it was saddled with another problem of its own that was not properly heeded to at the time of creation and reorganisation of states within the republic. It was the economic disparity and the growth potential of the states. This was to be taken care of at the time of allocation of resources and the varying graphs of prosperity in them was bound to give rise to severe conflict situations. The pluralistic society with different class compositions was another fertile ground to throw challenges to the federal administration often with veiled threats of cessation and violence emerging in the different corners of the country. The whole scenario was further confounded by the absence of leaders of national stature with the demise of the tall leaders who did fire the imagination of the people in the course of the struggle for independence;-and those who were left were busy with fighting either turf wars, or making their own places secure in their own regions. It did create some apprehension among the European thinkers whether a Balkanisation of India was in the offing.

All this was to confront the budding administrators—the brunt to be faced mainly by the bureaucrats in the civil administration and the police. It would be worthwhile to have a look at how the situations unfolded.

The scene unfolds:

It was the day of the first general election of independent India. Our home was witnessing some frenzied activity seen only on festive occasions since the past couple of days. Dusty covers of age-old steel trunks and wooden boxes were being removed and the contents were coming out with appreciative strokes and sounds of admiration-wow! They still look so good! A black buttoned-up coat of a shiny material and a buff-colour chemise, never seen before, emerged from the depths of those boxes. The first was the relic of the official attire of the bench-clerk of the District Judge—an office served by my grandfather, and the second was the favourite one of my grandmother during her younger days. The rest of the family did not lag behind. My mother, aunts, including the domestic help-all put on their best and the patriarch led the family to the polling booth as Christians attend the church in their Sunday best. In the booth and around, it was all smiles and bon homie. We the children had a gala time romping around in the open playground within the booth campus.

The next two elections I was in Calcutta pursuing my studies. The change in the ambience preceding the elections and the follow up were palpable. Friends and relations suddenly got divided to opposite camps, fraternity

yielded place to hostility. The indications were not far from clear. Divisions along political lines made their presence felt on every thread of the social fabric and the subsequent elections not only bore testimony to that, but expanded the fissures to gaping breaches in the community as a whole. The avenues of division were many and chequered-- religion, caste, class creed reservations for special communities—name any,that suited the political aspirants. The only things that went by default were political ideologies that were supposed to be the springboard of political parties meant for a functional democracy, and the concept of welfare of the people, a common good. Friendly contests became turf wars, violence, tailored elections by preventing genuine voters from casting their votes, terrorising them for a span of time both before and after the elections, offering money, free liquors on and before the election day as well as other allurements—nothing was beyond the behavioural pattern of the contestants. On top of that was the changing of sides after getting elected depending upon which side suited the self- interest. By the time I retired from active service after overseeing so many elections, this was the general picture. From the first election till the present or the future ones, the metamorphic change(negative way) in the mindset of the electorate and their mentors—could the bureaucracy and police in India have any hand in it? A more important question, could they have prevented it?

Bureaucracy and police in India – the colonial backlash:

We now have to turn our attention to the concepts of bureaucracy and police. Bureaucracy as explained by Oxford English Reference Dictionary is a government by central administration, state or organisation so governed, the officials of such a government esp. regarded as oppressive and inflexible conduct typical of such officials. Police as defined by the same source is the civil force of a state responsible for maintaining public order. The concepts of public order and the rule of law are inextricably interwoven--, we shall have to revert to them later.

Bureaucracy and police therefore are both institutions and systems at the same time and both intrinsically stem their origin from collective needs of individuals, and should have the flexibility to adapt to the changes in times and societal needs. In our country these were brought in by the British; the Imperial Civil Service and the Imperial Police, meant for the colonial rule became the Indian Administrative Service and the Indian Police Service, the Acts and Rules governing them mostly remaining the same. The precursor

of the Civil Service was the Act of 1853 introduced in India in 1854 and the Police Act in 1861.   The need for having such services was underlined by the first Deputy Prime Minister of India, Sardar Vallabhbhai Patel in his letter dated October 15, 1948 to the Constituent Assembly;

   I need hardly emphasise that an efficient, disciplined and contented civil service assured of its prospects as a result of diligent and honest work, is a sine qua non of a sound administration under a democratic regime even more than under an authoritarian rule. The [Civil] service must be above party and we should ensure that political considerations, either in its recruitment or in its discipline and control, are reduced to the minimum, if not eliminated altogether. [The Framing of the Constitution of India, N. M. Tripathy Pvt. Ltd. Bombay,1968 p.715] Hardly he could imagine what would be the plight of the service in the next few decades. The very unity and integrity of the nation state was to come under jeopardy due to narrow political machinations catering to vested interests.

   The Commission on Centre- State Relations emphasised the need for such services for preserving the unity of the country [Report Part 1 1988]. Since their inception both the Services have passed through transitions over the years to an extent that almost belied the very purpose behind their existence. It could be interesting to have a look at the comments the British bureaucrats and police officers had to offer on the functioning of the systems in India. B. Pollard Superintendent, Leicestershire Constabulary addressed a National Seminar at the S.V.P. National Police Academy with the following words; 'The problems of the Indian police have arisen because the British introduced a police system in India which was quite opposite to their own system in the U.K. This was a deliberate change because in India the objective was to maintain the British Raj while in the U.K. they wanted a democratic police answerable to Law AND Law alone. The British police are accountable to criminal and civil courts and are not subject to any political control whatsoever.' [S.V.P. N.P.A. Magazine, April 1978.] Incidentally, the Indian Police Act still dates back to 1861 and nothing except some cosmetic changes have resulted in response to the recommendations of successive National Police Commissions.

   Baroness Shirley Williams, Labour Party leader of England addressing a function in British Council in Delhi on January 12, 1995 on Democracy— Old and New had to say—'The irony of Indian Bureaucracy which is large like the British is its reluctance to empower ordinary citizens. Its role is

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restricted to the deliverance of power....the political executive and bureaucracy have deviated considerably... the entire citizens in our country is fast becoming passive citizens from active ones...the problem is that the public has lost its desire to participate in politics in U.K.' While the same holds so true in India, it is marked with another unique characteristic—the induced reflex of lack of faith in oneself. And this has affected the services as well, but it would come later.

Growth of bureaucracy – a journey through corruption:

We may now have a look at the evolution of bureaucracy as it took shape through the years. As we go back to their origins it becomes clear that the import of corrupt institutions on them is nothing new at all. Institutions and systems per se are unable to get corrupt by themselves. They need a catalyst,-- the intent behind their use, and the purpose for which they are used. Corrupt is synonymous with incorrect, wicked, unjustifiable, morally depraved, induced by questionable motives. And the British bureaucracy was all that to start with.

The moot question stands, who defines the goal of bureaucracy in a state? It is the seat of power in the government. And how does it do so? A reference to the Civil Service Reform vs. The Spoils System—Facts From English History, may help us to understand the situation. A few quotes; 'In our mother country, good old England, in one form or another the spoils system flourished for centuries and corrupted the administration of its government to a degree never known in America. In the seventeenth century Oliver Cromwell made not only political opinion, but religion also as a test of official tenure. The evil influence of the system extended to the legislative department. Referring to one of the parliaments in Cromwell's time, the historian Green says that 'it was calculated that of the members returned, one-half were bound to the government by ties of profit or place'.(Green's History of the English People, Vol. 3 pp.297)..

Under James II, the system was carried to an extreme. Macaulay says King James II was determined to keep in public employment only such gentlemen as should be disposed to support his policy......The Commissioners of Customs and Excise were ordered to attend His Majesty at the Treasury. There he demanded from them to support his policy, and directed them to require a similar policy from all their subordinates. One Custom-house officer notified his submission to the royal will in a way which excited both merriment and compassion.' I have' he said, 'fourteen reasons for obeying

His Majesty's command; a wife and thirteen young children.'

'In those days of King James II, it was also extended to municipal affairs, just as in our own time and in this country. Creasy, referring to this says; 'Its effect was to place in the hands of the Crown the nomination of a large portion of the House of Commons, and to give its adherents the power of domineering in all the details of local municipal politics. The court put in force every artifice, and used every injustice and violence of the gravest kind throughout England to manage the elections.... An eminently servile House of Commons was the result. The result was best stated by Mr. Eaton ''With rare exception all those in office and all those connected with the court or politics were seething sources of corruption.. the very fact of a man or a politician brought suspicion upon his integrity and his manhood'.(Eaton's Civil Service in Great Britain Chap.7]

The system was fine-tuned to a magnificent edifice at the American experiment, the immediate successor to the British system. The reference used here is; The Spoils System In New York Previous To The Administration Of President Grant- A Historical View.(Chapter 1). 'Among the maxims of Colonel Aaron Burr for the guidance of politicians, one of the most prominent was that the people at elections were to be managed by the same rules of discipline as the soldiers of an army; that a few leaders were to think for the masses, and the latter were to obey implicitly their leaders and to move only at the word of command. He had therefore, great confidence in the machinery of the party.

In Parton's Life of Jackson, the Burrian Code, as Mr. Parton calls it.. contains among others, these fundamental maxims-

1. Politics is a game, the prizes of which are offices and contracts.
5. Fidelity to the party is the sole virtue of the politician. He only is a politician who would vote unhesitatingly for the Devil, if the Devil were REGULARLY nominated. One sin only is unpardonable - bolting.
6. No man must be allowed to suffer on account of his fidelity to his party-no matter how odious to the people he may make himself.
13. When there is a conflict between the party in the whole union and the party in the state, or between the state and the party in the country, a man must adhere to the behests of the majority of his own local organisation. ...
14. Editors are to be unscrupulously used, but never to be implicitly

trusted ...

19. The end and aim of the professional politician is to keep great men down and put little men up. Little men owing all to the wire puller will be governed by him. Great men having ideas and convictions are perilous even as tools.

Across the boundaries of time and space, don't these maxims sound prophetic even now?

Civil services – the politico administrative dichotomy:

In his first major post Presidential address in the University of Chicago Obama claimed it had long been his goal to bridge the country's long political divide. 'It is harder and harder to find common ground because of the money in politics ... special interests dominate the debates in Washington in ways that don't match up with what the broad majority of Americans feel. Changes in the way people use media allow them to converse just with those who agree with their point of view.'(India Today, April 25, 2017)

This is by no means a new or isolated development. The answer has to be found in the politico-administrative dichotomy. An important watershed in the quest to understand the nature of public administration occurred in 1887, when Woodrow Wilson published a paper outlining prescriptively his view of its nature.(Wilson, 1887). Wilson drew a distinction between the activities of politics and administration, and argued that administrators were outside the political process, concerned only with impartial implementation of the policies catered by politicians. This stood as a classic statement, which identified an area of professional activity, distinct from the hurly burly of politics, which could be seen as a respectable and permanent career.

Today one finds the proposition widely employed (overtly or covertly) by the mass media politicians, and practising administrators for their own purposes. It may be used as a depiction of the way, those actually are (a descriptive statement), or as an ethical guide to the way things should be (a prescriptive statement). Indeed such a prescription was particularly appropriate for the time it was advanced, as a basis for attacking widespread public corruption in America. However in behavioural terms it has been demonstrated as entirely untenable. Countless studies, as well as common sense observations of practitioners testify to the fact that ethical judgements made by administrators intrude into the policy-making process, at all levels. Civil Servants cannot be portrayed as political eunuchs... At all levels above

the most menial, public administration requires the exercise of judgement and choice. If the administrator believes himself to operate in a value-neutral manner with no framework of moral constraint, administration becomes little more than a pattern of 'uncontrolled, opportunistic adaption'.(Waldo 1955;64)

In principle, civil services are agents of government; they are established to fulfil the functions of rule implementation, the 'rules' being, for the most part, the policies of the state. However in reality, it is not possible to discern a perfect identification of structure with function, civil services are not mono-functional, they do not merely implement policies, neither the function of implementation their sole preserve. In most modern states the latter function is dispersed among a range of agencies, including institutions of local government, various ad hoc bodies, and nationalised industries. The greater the amount of public administration carried out by such semi-autonomous agencies of the state, the more important it becomes to focus attention not on the function of implementation, but on the role of civil service in policymaking, control and regulation. (The Civil Service in Liberal Democracies; An Introductory Survey;; J. E. Kingdom.)

Dr. Manmohan Singh, unquestionably the most erudite Prime Minister and witness to the blatant show of political interference in the affairs involving Civil Service and its role in policy matters touched the core of the issue and placed it in its proper perspective in a few short sentences that need no elaboration;--'Institutions are of utmost importance in all democracies. Belief systems in societies are captured and enshrined through institutions. Institutions are the pillars that ensure orderly transfer of powers and stability of a nation.'—(Whether he could try to maintain the sacrosanct character of them were another matter) These pillars started eroding and getting wobbly through a continuous onslaught by elected political representatives partly on their own volition, and partly by vested interests controlling them. It would not be wrong to mark this development as a post second world war phenomenon. With a pronounced shift from conservative to labour orientation, a new class of leaders were emerging who asked for commitment to their cause at all costs and readily found their 'bet noire' in the bureaucracy and police.

A look at the functioning of the French administration could be most illustrative of the emerging pattern of developments in the political executive vis-a-vis the Civil Service. French Civil Service stood out from the rest in

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European democracies as they were authorised by the Constitution to participate in political process and even function as a part of the political executive. It also deserves to be mentioned here that France underwent most frequent changes in governments as evidenced in the series of Republics in the last century each pursuing its own policy. But the administration did not feel the pinch and remained more or less immune from extraneous pressures. Pressures however started internally and became all the more apparent during the Gaullist regime. It did not remain limited to 'We have been elected, you have to respond', and 'We have to manage, please do not interfere'. Civil Services were no longer asked to find solutions but to apply those that had been described and promised during the electoral campaign by the victorious Presidential candidate. Policy loyalty is required but this loyalty can hardly be distinguished from partisanship, as each government tries a new set of policies as 'solutions' to societal problems. What was novel was the fact that those policies in content as well as in institutional inception, were elaborated by think tanks or partisan spheres before and during political campaigns. (Luc Rouban; Politicization of the civil service in France)...[This trend was introduced in full glory in the name of 'commitment' in the days of Madam Gandhi in India. Whether it was an offshoot of her meeting with Charles De Gaulle could be an interesting study.]

Senior Civil Servants who used to participate in the political decision-making process on a regular basis started feeling subordinate to the political echelon of the Government. They were facing a transformation of their professional role that they could not control. And the politicisation worked in two ways—1, by formation of groups within the service, and 2. by making inroads in their traditional independence, that had them worried. The logical concomitant may be described as a diminishing will to implement the scheduled programmes more thoroughly, and a rise in the determination of elected leaders to control administrative work more stringently.

Politicisation these days has achieved a new dimension. It is seen as a result of a new type of political action i.e. reaction to the growing number of emerging controversies over politically debated issues. Civil Servants are called upon to devote their professional knowledge to defend or promote a government decision not of their own making. They are now being engaged in policy advocacy, calling for both party loyalty and technical inputs into government programmes handed out to them. A completely new element is

that they have to sell the decisions to public opinion and to public or private interest groups.

And this is where Indian bureaucracy finds itself in a strange conundrum. The role of Civil Services (bureaucracy), in policy-making, and formulation of rules have been effectively sabotaged by the behaviour of the political parties forming the governments both at the centre and the states. The pattern that emerged, finds the same political party renders support for the very same changes opposed by them when they were in the opposition, with the turn of the table. The thumb rule is opposition for opposition only , -- reasons do not play any part. The composition of the Indian Parliament with a Lok Sabha and Rajya Sabha, of late, has been found to be an effective tool to thwart the mandate of the majority of the people. Perhaps it provides a classic case of a healthy pragmatic process of checks and balances in a federal union of pluralistic society being put to jeopardy by practices not envisaged in the concept.

This brings us to the subject of corruption in public offices.

Corruption: definition and variants

Corruption remains a contested concept; a coherent theory of corruption is yet to be fully articulated. Carl Friedrich claims corruption is 'deviant behaviour associated with a particular motivation, namely that of private gain at public expense... whenever a power holder who is charged with doing certain things, that is a responsible functionary or office holder, is by monetary or other rewards, such as the expectation of a job in the future, induced to take actions which favour whoever provides the reward and therefore damage the group or organisation to which the functionary belongs, more specifically the government.' The other significant observation he made is –'The degree of corruption varies inversely to the degree that power is consensual,--all functioning constitutional democracies.'

This public office-centred definition could be linked with the concept of institutional decay as in the Watergate developments—President Nixon and his White House aides had blatantly abused the powers of their offices to undermine their opponents. [Indian parallel, we shall come to in course of this writing]. Meritocracy therefore has found no answer to this evil. This stems from a much broader notion which is implied in the expression of Lord Acton—all power tends to corrupt and absolute power corrupts

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absolutely... it is the moral depravity which power is to cause in men; they no longer think about what is right action or conduct , but what is expedient action or conduct'. Acton's statement touches the paradox of power and morals. And the picture gets more and more confounded as power continues to ensure that the question of morals could not be allowed to raise its head. Meanwhile corruption remains a particular form of political pathology, systematically a form of coercion, namely economic coercion. Not only buying of votes and actual monetary rewards, but all the more in indirect forms, such as gifts or otherwise to influence the judgement of those who exercise governmental functions, are instrumentalities in this sphere.[Political Corruption Concepts and Contexts; Arnold J. Heidenheiner and Michael Johnston Third Edition]

   Another variant of corruption could be market-centred. As Van Klaveren observes; A corrupt civil servant regards his public office as a business, the income of which he will seek to maximise. The office then becomes a maximising unit. In rapidly developing third world countries this frustrates the implementation of national policies, erodes the status of the elites and can permit individuals or groups to gain influence over the actions of bureaucracy.[A name that instantly comes to mind is the Ambanis, but there are many as well]

   Lastly these mostly are the countries where official corruption has been widespread for ages with no visible signs of public outrage. The present day public officials and political leaders are the products of this paradigm. Each learnt their own lesson as they grew up!

The Indian Scenario:

Frequent transfers, by themselves were pernicious enough. But the motivations behind them could be all the more sinister. Nixon and Watergate were mentioned to illustrate the contribution of institutional decay towards corruption in bureaucracy. The Position of India now deserves a close look in view of the earlier paragraphs. The Economic Times[3/12/1990] editorially commented on this practice and stated; The problem has its origin in the concerted attempt made by Mrs. Indira Gandhi to convert the civil service from a neutral, professional body to a 'committed' bureaucracy.... fairly quickly, the distinction between commitment to constitutional values and that to the demands of the political party in power, and even worse, the concerned ministers and PM in office began to wear off. The slogan 'be committed or be omitted' began to acquire ominous tones

and many a capable civil servant has been hounded from office as a result of political or personal vendetta. Rather than resist this trend, the civil service, with honourable exceptions, looked for a Modus Vivendi and legitimised the politicisation of senior bureaucratic appointments.

Commitment is certainly a necessary virtue for the success or otherwise of an administration. But the raison d'etre remains, to whom, why, and how. Commitment to a Hitler and a Roosevelt certainly cannot produce identical results. In the instant case, a Prime Minister asking for it was elevated to the position not by normal democratic norms. The backdrop was the vacuum created by the demise of the tall leaders, the old guards lacking their stature being unable to come to an agreement to elect anyone among themselves, and at the same time refusing to quit the arena with the lure of power and position. Hence a compromise candidate was pushed up hoping it to be a stopgap measure without losing their control.

How mistaken were they! The results came ad seriatim. The age-old Indian National Congress was bifurcated, a departure from the system of Party Whip was introduced in the form of 'conscience voting' that led to the election of an opposition candidate as the President of India; a total control over the party led to selection of pliable party presidents one of whom went to the extent of identifying her with the country. Neither the Union Minsters nor the Chief Ministers of States were secure in their positions; they were rotated at will as in a game of musical chairs. The travails of bureaucracy and police could be easily understood.

The only safeguard under such circumstances remained the Judiciary, the Rule of Law and the Due Process of Law. The Judiciary was not spared either. The judgement of the Allahabad High Court declaring her election as null and void was reversed at the Supreme Court by a reconstitution of the Bench through supersession, and selection of pliable Judges to serve her cause. That was not the end. An Amendment to the Constitution, 39th, was passed making election of the President, the Vice-President, Prime Minister and Speaker beyond judicial review. The Supreme Court accepted retrospective amendment to electoral law—electoral malpractice of Indira Gandhi was no longer a corrupt practice. A parallel could be found in what became famous as the Talwalkar Amendment. Sanjay Gandhi in his mission to protect a baron of cement industry exerted all his political clout to remove the chief of the State Bank of India an officer of sterling qualities as he stuck to his guns in prosecuting the offender. As all avenues failed the

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Constitution was amended!

All this would not have been possible if the cardinal principles of Due Process of Law and Equality before Law as enshrined in the Constitution were adhered to in their connotative significance in adjudication of cases. The issue of who would ultimately decide whether a law was just had already led to a turf war between legislature and judiciary in Western Democracies- and the framers of Indian Constitution wanted to take a leaf out of the American experiment. It was thought expedient to send B. N. Rau as a representative to meet Justice Felix Frankfurter, a sitting Judge of the Supreme Court of the U.S. The raging controversy at the time was over the rights of the States against the Federal Government, and Rau was advised against the inclusion of the clause as it would impose an 'undue burden' on the judiciary.

This, however, did not reflect the whole picture as protection of individual rights and liberty were not touched upon. By the middle of the 19th Century, 'Due Process of Law' was interpreted by the U.S. Supreme Court to mean that 'it was not left to the legislative power to enact any process which might be devised. The due process article is a restraint on the legislative as well as the executive and judicial powers of the government, and cannot be construed as to leave Congress free to make any process 'the due process of law' by its mere will'] Murray vs. Hoboken Land 59 U.S. 272(1855)]

Similar was the view in U.K. Lord Alfred Denning agreed with the view of Madison proposing the Fifth Amendment of the American Constitution(1791) and gave out 'By Due Process of Law I mean the measures authorised by law so as to keep justice pure... it is in these matters that the common law has shown its undoubted genius. .. Time and again we have ventured out on a new line only to be rebuffed by the House of Lords on the ground that the Legislature—advised by this body or that—can see all around, whereas the Judges see only one side. This I dispute. The Judges have better light and longer sight than those other bodies, especially the practical working of the laws and the safeguarding of individual freedom. .. Much of our substantive law is faced laced in the procedure.(The Due Process of Law Alfred Denning, Oxford University Press, November1979)

The moot point is it empowers the Judiciary to assess the fundamental fairness, justice and liberty behind any legislation. In India it was the interest of the entire nation state on the anvil. But the clause was dropped after the return of Rau. It however found a backdoor entry in the late 1970s through

the Right to Equality. Since then it became a conduit for judicial activist constitutional interpretation mostly shorn off the substantive part of it. With judgements contradicting one another becoming the rule, the grey area continues—and Indian Bureaucracy and Police remain in a quandary.

Drums Roll And Bells Toll

The circle of commitment was thus complete. The Judiciary was not to lock the eyes with the government in instances of unjust orders but to look the other way to rescue the government as well as save itself. To what extent it could reach was best revealed by the shocking observations of Justice M.P. Thakkar during hearing of an SLP of Jagdish Chander Jetli an IAS officer of the 1957 batch who was superseded for the post of Secretary to the Government of India. The Central Administrative Tribunal upheld the contention of Mr. Jetli but the GOI remained bent upon retaining the unfettered discretion in appointing officers to the posts of secretaries to the departments. Justice Thakkar's observations inter alia were—'Even when a person appoints a cook or a watchman he looks for a person in whom he has faith. How can Government of India have any person as Secretary in whom it has no faith.'!

Dr. Madhab Godbole, the Union Home Secretary, who had to proceed on voluntary retirement after the demolition of Babri Masjid being subject to a malicious campaign against him due to no fault of his own, had put them very succinctly in his book Unfinished Innings;

'Large-scale transfers with every change in the government have become the bane of the system. It is considered a prerogative by every new regime, to reshuffle officers and place its own men in command. A cartoon pithily described this new ethos when an IAS officer tells another—I belong to the Rajiv Gandhi batch. You must be of the V. P. Singh batch. With the frequent changes off governments at the Centre, this practice has become common in Delhi. Frequent changes of secretaries due to extraneous reasons are leading to considerable demoralisation in the top civil servants'.(this was equally applicable to the IPS. The Director Intelligence Bureau and the top hierarchy in police in both the Centre and the states suffered the same fate). The irony remains in the concluding words of every order of transfer—'IN PUBLIC INTEREST'!

Commenting on this pernicious practice, B.R.L. Iyengar says; In England, the changes in departmental Heads—Permanent Under Secretaries – with a change of government are uncommon. Since Lloyd George as PM created

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the office of Cabinet Secretary after the First World War in 1916, there has probably not been a single instance of a Cabinet Secretary being replaced by a new PM. The British Civil Service have been largely successful in resisting inroads into its own domain.

In a Parliamentary democracy, the buck stops with the Prime Minister. And here was one who had ensured unbridled control over all the three wings of the government as well as the party that was in power. Lord Acton stood revisited in all her moves. As in politics, quality determines the flow of events in the economy as well. Good savings promote a healthy economy. Clandestine savings generate black money and create a parallel economy. According to a study made in 1991, at the price level of 1989-90, the amount of black money in the country was estimated to be Rs. 300,000 crore... According to another internal study of the Planning Commission the amount of black income had gone up to rupees four hundred thousand crore during the thirty years-1961-91. The National Institute of Public Finance and Policy in its report, Aspects of Black Money in India, estimated the black income generation at 18 to 21 per cent for the year 1983-84 and emphasised;

Even if economic policies such as tax and industrial import policies are changed to scale down the generation of black money[Rs. 37,500 crore annually], so long as there is persistent demand for black money or the clandestine acceptance of unaccounted money on the part of the politicians, some of whom may be already in authority and others who are likely to assume leadership, business would have the need and temptation to spawn black money.

In the middle of 1971 the Direct Taxes Enquiry Committee, better known as the Wanchoo Committee recommended demonetisation of high-value currency notes. After much deliberation in the Finance Minister's room, demonetisation along with other steps were recommended. The sensitive nature of the subject together with the need for maintaining utmost secrecy required the Finance Minister to approach the Prime Minister personally. As Mr. Y.B.Chavan apprised her of the proposal and his own support to it, the reply was; 'Chavanji, are no more elections to be fought by the Congress Party'? The message was loud and clear; the recommendations were shelved. [Dr. Madhab Godbole;; Unfinished Innings; pp.88]

Y.B. Chavan was considered to be a future PM for the country both nationally and internationally. His fall from the grace was soon to follow. The avenues for the entry and continuance of the unscrupulous businessmen

in the domain of making political decisions were thus kept open. This further illustrates the market-centred concept of corruption. 'Corruption functions as an extra-legal institution used by individuals or groups to gain influence over the actions of bureaucracy. As such they do participate in the decision making process indirectly to a greater extent than would otherwise be the case.' (Etzioni; Capital Corruption; The New Attack On American Economy).—The recent exit of Raghuram Rajan as the Governor of the Reserve Bank of India, and forcing the hands of Urjit Patel, his successor to reduce the repo rate could perhaps illustrate the point most succinctly.

Fate of the police

Let us now have a look at the police. In early seventies, a member of Rajya Sabha in course of a dinner was reportedly asked by the Prime Minister,' What is wrong and right in politics'? The underlying message was quite clear—morality had lost its place in politics, as the question had come from none else than the PM of the country. The ensuing shock prompted him to shoot a film. As her son Sanjay Gandhi, on whom she had started depending implicitly and almost exclusively, came to know about it—he with the assistance of an obsequious Union Minister and his henchmen saw to it that it never came to light. A case was filed and the CBI reconstructed the entire crime. The charge-sheet indicted the Union Minister, the son of the PM among others. And both were convicted in the lower court. As it reached the Supreme Court on appeal, the successive directives by the Apex Court of the country to produce the film before it were stonewalled by the Ministry through making false submissions before the Court. During the pendency of the appeal, witnesses started getting hostile [for reasons not far to seek], the original victim was won over and a politically motivated prosecution was launched against the Deputy PM of the Janata Rule and the CBI officer. The accused persons blatantly showed their muscle power, there was a political changeover through the election and the case was promptly disposed of ending in acquittal of all the accused persons. In the bargain, the convicting Judge could never make it to the Higher Court, the CBI officer was unceremoniously reverted to his parent cadre and his eldest son died in a street accident. The two were never sought to be connected by the aggrieved father, but the case was not solved either. ... Should we recall the fourteen reasons of the British office-bearer to owe allegiance to King James2?

When Srimati Gandhi was to be arrested and taken to judicial custody following the Judgement of the Allahabad High Court countermanding her

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elections, her reactions did reflect little regards for the Rule of The Law in the country. Once again the CBI came into the picture and by a strange quirk of fate, the same officer [I am not sure there would have been any takers for the job of arresting Madam Gandhi then!] was entrusted with the task of taking her in custody and reach her to Badkhal Rest House till the opening of the court the next day, in case she refused to be enlarged on a personal surety bond. By the time, Madam Gandhi had eleven years behind her as the PM of the country and by no stretch of imagination it could be presumed she was not conversant with how she should react to such a perfectly legal procedure. Instead of abiding by the procedure to help the process of law, she put up a series of impediments refusing to meet the police officer, mustering party followers at her residence, asking impossible questions and indulging in dilatory tactics. Apart from refusing to accept bail she was perfectly entitled to, her personal conduct included physically assaulting lady police officers who went there in their line of duty, and mutely observing roughing up of officers and men of Delhi police by Sanjay Gandhi and his musclemen as the convoy stopped at a railway crossing, getting out of her car and refusing to proceed to the prescribed location.

The time-honoured CBI, gradually lost its pride of place in the minds of the people and became a tool to be utilised by the powers at the centre to suit the political convenience of the party in power. In the states, its need is felt by the political parties while in opposition, but as and when they come to power they resist its functioning in the states by forming their own 'Special Investigation Teams' to whitewash all that could create discomfort for them. The problems become more acute when the state and the centre are at loggerheads for reasons best known to the warring political leaders. Just a couple of examples should prove the point. Bofors is taken out with the regularity of a metronome and shelved at the stroke of political expediency. In Tamilnadu, prosecution was started and withdrawn against Karunanidhi for reasons not remotely connected with law. Jaylalitha even dared to contest the election when she was already under conviction. Connection with the underworld, being accused in criminal cases including murder, rape, kidnapping do not stand in the way of being selected as party candidates for fighting elections; and they get elected too. They also enjoy open patronage of the men at the helms. When Janata Dal Secretary-General Sharad Yadav won the Madhepura Lok Sabha by-election, the person driving his car was Pappu Yadav, the ferocious super-don who created a sensation by escaping

from custody only the previous fortnight.. Chandrashekhar as Prime Minister of India had no hesitation in proclaiming(November,1990) 'Corruption is not an issue.. Yes, Suraj Deo Singh[the coal don] is my friend.' An evaluation of the quality of the elected members of the Parliament was best made by Pramode Mahajan holding the chair of the Union Minister for Information and Technology while inaugurating a training camp for RSS/BJP politicians 'I know that most MPs see the Constitution for the first time when they take an oath on it. They hardly know the history of their own political party, leave alone that of the competing party. (Sunil Khilmani; The Indian Constitution And Democracy)

Travails of Indian bureaucracy and police

Democracy is grinding work. It requires negotiation, compromise and concessions. Setbacks are inevitable, victories always partial. Initiating bills for enactment may die in legislatures, or be blocked by the judiciary. All politicians suffer frustration from these constraints—but the remedy lies not in bulldozing all the checks and balances taking them to be straitjackets. Even well-designed Constitutions cannot by themselves guarantee democracy. They are always incomplete, - like any set of rules they have countless gaps and ambiguities. All possible contingencies cannot be anticipated nor laws can ba prescribed on how to behave under all possible circumstances. And competing interpretations are always fraught with the danger of emphasising the letter and not the spirit of the Constitution. The remedy has to be sought in political norms,-mutual toleration and institutional forbearance—aptly termed as "The Guardrails of Democracy'. (Steven Levitsky & Daniel Ziblott- How Democracies Die Viking, 2018. The absence of forbearance combined with checks and balances lead to deadlock and dysfunction. The functioning of the present Parliament provides the classic example. But it hits the bureaucracy and police vitally as the intolerance and lack of forbearance at the top percolates downwards and get reflected in the behaviour of the teeming followers.

Total disregard of these two norms harbours quite a sinister foreboding. An intense partisan polarisation forming out of their absence can find an offshoot in the potentially explosive issue of race finding an ally in the religious and communal divide. The ruling political party returning with a vast majority, suddenly found the issue of identity of the Hindus as of primary concern. The propagation of Hindutwa as the major platform sans a rational understanding of the concept did lead to a proliferation of growth of

sectarian formations,- some even trying to identify with nationalism. Irresponsible statements by a section of the leaders of the party in power only aggravated the atmosphere of communal distrust and the self-appointed protectors of Hindutwa started finding fault with the food habits of non Hindus, with intercommunity marriages, as well as transportation of cattle for perfectly legal transactions. Lynching and murder of innocent people for trumped up charges started increasing, a new logo of love jehad was put in circulation as it was felt those marriages were virtually to proselytize the members of one community to another. A benign tolerance and overlooking the strong arm tactics of formations like the Bajrang Dal marked the reactions of the top echelon of the Party and the political executives to begin with, followed by some admonitions as the numbers increased leading to an outcry. However no change in the mindset is still visible.

Amidst all these there were no abatement in the corruption at high places, the institutions of Lokpal and Lok Ayukta still hung in balance and political leaders irrespective of party affiliation continued to find difficulty in agreeing to confer authority on any police officer or a member of the Judiciary to enquire into the omissions or commissions at the top. The first hurdle was the Prime Minister followed by the Chief Ministers of the States who were not ready to submit their actions to the scrutiny of a third apolitical neutral authority.

The fallout in totality has been the emergence of a "subculture" in the domain of political behaviour. Verbal abuse by political executive and the lower echelons of the party of bureaucracy and police became a common practice irrespective of political ideologies, and that too in public. Could it be that a new political party shorn off all these questionable practices and long grown vested interests would prove to be a saviour? A lot of expectation was there when an IITian with no political strings and an IRS officer leaving the service on voluntary retirement to boot stepped forward with some like-minded buddies to form a new political party with the avowed goal of cleaning the Aegean stable. The result has been there for all to see. Apart from the fact that the Chief Minister had to render unconditional apology before the Court of Law on a series of occasions to evade punishment for defamation, he along with eleven of his colleagues stand charge-sheeted by the police for physical assault on the Chief Secretary while on official duty.In West Bengal, a Minister retains his chair remaining an under trial prisoner in the jail for the full term accused of being

involved in a huge chit fund scam. The Chief Minister herself within a few days of assuming her chair for the first time stormed a police station in her constituency with her henchmen to free her supporters from the police lock up. And now the trend is to promote state service officers in the name of commitment, as the IAS officers are found 'lacking'!. All official correspondence with Delhi has to pass the scrutiny of select officers and Ministers.

Marx came out with a profound definition of the bureaucrat; ' The bureaucrat relates himself to the world as a mere object of his activity'. This may appear to be a narrow professional attitude attributed to a bureaucrat, but the Indian conditions probably to a large extent leave him with no other alternative. Apart from the requisite qualifications, his associations, vocational pursuits and a host of socio-economic factors, the pitfalls consonant to the conditions of his service assume larger dimensions. In view of the earlier analysis, these may be broadly outlined as;

1. A political executive largely shorn off any scruples and the interest of the nation.
2. Political ineptitude at the top, leading to either inaction when action is needed or overzealous acts when they are not necessary. Rajiv Gandhi sent IPKF to Sri Lanka even without bothering to consult the Cabinet as required by the Constitution. Narsimha Rao sat over the problem of Babri Masjid. Both the situations ended in catastrophe.
3. Lack of firm political will and dithering in decisions as well as shifting stands frequently making the top bureaucrats scapegoats for the debacles.
4. Turf war among the Ministries using bureaucrats, polluting the system.
5. Entry of large business houses in influencing policy decisions through their control over political representatives.
6. Nexus with large trading houses in international trade. It is common knowledge that the hidden cost behind doing business with the government in India is quite high.
7. The connection of the political executive with organised crime having a narcotic connection as well, and last but not the least,
8. Considerations of religion, class caste reservations etc. plaguing the political executive all the way. Even for the election of the First Citizen of India, the criterion had to be caste consideration.
9. The sum total being a superimposition of the Spoil System over the

merit system throwing the rules of tenure and promotions of an established system of bureaucracy framed under the laws of the land to the winds. In Tamilnadu a Chief Secretary was chosen overlooking the seniority of seventeen incumbents. In West Bengal, the DGP was granted extension by two years. The new Home Secretary supersedes a host of his seniors.

As the downslide continued unabated, and on its way started gaining momentum, scams multiplied, breakdown of law and order became rampant, and people's faith in the governance started receiving a heavy beating, the cascading effect of all this rebounded on the civil administration, often assuming newer and larger dimensions. The predicament of Indian bureaucracy and Police was being reduced to a favourite whipping boy.

Mapping the Contours

It's time now to map the contours. Political leadership had become a saleable commodity. Horse-trading in elected representatives both at the Centre and the States was an accepted fact with no qualms in public mind. A New variety of issue-based politics has shelved the issues of morality and ethics with total success. The Civil Service being virtually absolved of their role in policy making, control and regulations, administration, as said by Waldo,- had become little more than a pattern of uncontrolled opportunistic adaption. The situation therefore was ripe for the growth and propagation of ideologies not consonant with the ends of the nation and the state.

A close examination credited them with the following functions;--

1. Cathartic – emotional release mechanisms in projecting the State versus the Centre controversy.
2. Morale maintenance—primary and second level defences against morale- threatening lncursions ;--demand for Khalistan in Punjab, current developments in Kashmir, flare-ups in North-east.
3. Solidarity reinforcement function; the Ram janambhumi Babri Masjid controversy—playing of Hindu Muslim cards.
4. Advocatory function; guiding masses to recognise the issues and polarising their responses—Mandal Commission and the subsequent developments.

All these reflected the heightened perception of unfulfilled aspirations of different sections of the people spread all over the country. The danger

signals were twofold. On the one hand the integrity of the nation state was under siege by these forces of disruption from within that also enjoyed covert support from inimical neighbours. And (2) the psyche of the people gradually but systematically undergoing a change threatening the prime requirement of internal security on the other. Alienation of the people from the government spells negation of political security and concomitantly internal security. In absence of a healthy conscious support base of the people and the eligibility of the government to take the people along with it, the people do not find their convictions nor the will to express and assert them. This, in its turn again facilitates the operation of the forces of dissension and the vicious circle continues.

While all these keep on taking place due to the malfunctioning of the misdirected government, the bottom line however, remains dumping the onus of the blame on civil service and police for the breakdown. The result is both the bureaucracy and police in India lost some and acquired some tenets in this chequered journey. First to go was the service- orientation. These are no longer services, only jobs. And as the level of acceptance of this change kept on growing, the process of adaption became all the more easy and the thing to pursue. The next on the line is morale and motivation. With the removal of the concept of service, the job needs neither—reduced to repetitive drudgery and pursuing self-interest throwing all scruples away. The process is facilitated with the development of a symbiotic relationship between corrupt political leaders and members of the Services, both Civil and Police—each searching out the other. The only problem area remains public ridicule and a self-awareness that things were not right. In all honesty if they are asked whether they would like their children to follow the same path—the answer is an uncomfortable silence, averting the eyes, and mostly an emphatic NO. To start with, this gave rise to the growth of a sub-culture to find assurance in rationalising their actions, forming of circles within circles. The present picture is of a full-blown Stockholm syndrome. There is not only no concerted effort to come out of this rut, any attempts to change the foisted pattern of side-tracking the established rules and regulations of administration—they have started finding them perfectly acceptable and worthy of support... The same old adage-'While Rome was burning, Nero was fiddling.

What if the trend percolates and becomes an accepted way of life!

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Debabrata Banerjee

<center>**Part – 2**</center>

Public perception of Police

An Indian Police Service officer joining the service in the nineteen fifties with a brilliant academic record in Delhi University found his teacher with a rueful observation—he had come to Delhi in search of excellence as a human being; he returned as a Police. With a gap of about a decade and half similar fate greeted another. The day it was known he had been selected for the service, he found his nephew who was very fond of him, running away and hiding himself in tears—why he became a police? He was teaching in a school when he appeared for the competitive exams. He was first selected for the state civil service. That was perfectly acceptable. Subsequent selection for the Indian Police Service was not. His favourite students who adored him as a teacher were crest-fallen! The reaction was almost like 'Thou too Brutie'?

There was not much of a qualitative change he could notice during his long service career with people who had no acquaintance with him. A thinly veiled hostility and distrust marked the parameters from the people under the administration as well from the centre of power whom he had to serve, whenever they felt he was not toeing the line. The reactions varied from outright rejection to positively bizarre. In the streets of a metropolis in West Bengal on a Flag Day, boys in NCC uniform were moving with collection boxes. The officer in a Police car was methodically ignored. Earlier while serving in a hill district bordering Nepal a tea garden was facing a problem of illegal settlers causing damages to their cultivation of tea. And they were not even citizens of the country. The Party leaders with a pro-labour attitude were obviously with them while the tea garden authorities obtained court orders for their eviction. While the administration was mulling with ideas that would cause minimum damage to the poor people, a horde of wild elephants descended on them in search of food and the local brew. While the forest department was getting ready to drive the mammoths away, the police was accused of dismantling their huts by instigating elephants!

The great Cambridge historian F.W. Maitland liked to remind his students 'what is now in the past was once in the future'. And this past has bedevilled the future indelibly the Indian Bureaucracy and the Police. Public perception of these two institutions has been true to the pluralistic character of the Indian democracy and varied in the states comprising the Nation. The major

conflict areas persisting in India since before Independence were caste class and religion. A fourth and fifth cropped up afterwards were language and distribution of economic resources towards economic growth. All these found new manifestations with time, but they were rooted in them. The euphoria of obliteration of the differences was limited to just those days when India celebrated its Independence. The French writer, Andrew Malraux once asked Jawaharlal Nehru what had been his 'greatest difficulty since Independence'. Nehru's reply was 'creating a just state by just means'. Then he added 'Perhaps creating a secular state in a religious country'.

The communal divide on the basis of religion showed no signs of abatement with the partition of India and the emergence of Pakistan. The founding father of the Indian Constitution, B. R. Ambedkar listed out the feasibility of three solutions -1.surrender by one party, 2.by negotiation, 3.by open war. The first one was found to be a political impossibility and continues to be so. The last one is ruled out as it negates the concept of a pluralistic federal democracy. The third one is being vitiated more and more by hardliners assiduously fuelled by internal and global pressures.

Caste and class, though have separate ramifications, they seem to have a meeting point on economic considerations. Historically the 'upper castes' have been the elite enjoying more power and affluence and with the progress of economic development their dominance was being perpetuated over all strata of society. Hence though they were in minority on a population count, they were the majority in controlling the political and economic governance of the nation state. The vast majority of the population who were left out gradually started finding their feet and the political fallout varied from democratic protests to extremist outbursts. And there also well intended measures to improve their lot through reservations fell into the hands of self-seekers, thus escalating the conflict areas. In the words of Ambedkar again, 'It is wrong for the majority to deny the existence of minorities, it is equally wrong for the minorities to perpetuate themselves.' But all this is being done by Constitutional Amendments suiting the majority in Parliament.

Crime and Punishment
(Fallacies of the public discourse)

UMESH SHARRAF, IPS*

The Background

The abduction, rape, and murder of an 8-year-old in Rasana village near Kathua in Jammu and Kashmir in January 2018 made national headlines after charges were filed in April. Nation-wide protests and candlelight marches followed. On 13 April 2018, the Prime Minister[1], as well as the Supreme Court of India, made statements condemning the incident and said justice would be ensured. United Nations Secretary-General[2] waded in with "guilty must be held responsible" and described the incident as "horrific".

The Unnao rape case refers to the alleged rape of a 17 year old girl on 4 June 2017. The main accused is an MLA of Uttar Pradesh. The rape survivor attempted to immolate herself in front of the residence of the Chief Minister of Uttar Pradesh, on 8 April 2018. Her father died in judicial custody shortly afterwards. These incidents led to the rape being widely reported in the national media[3]. The Unnao rape case and the Kathua rape case received national attention during the same period, leading to joint protests seeking justice for both victims. The Central Government has fast tracked the

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[1] *Team, BS Web (13 April 2018). "Kathua, Unnao rapes: Modi ends silence, assures 'complete justice'; updates". Business Standard India. Retrieved 13 April 2018.*
[2] *"Guilty must be held accountable: UN chief on Kathua rape". The Times of India. Retrieved 14 April 2018.*
[3] *All that has happened in Unnao rape case, a timeline". Hindustan Times. 10 April 2018. Retrieved 12 April 2018*

proposal of a national registry of sex offenders following these cases & also hurriedly brought about an ordinance [4] declaring death penalty for rapes of children under 12 years and a minimum punishment of 20 years imprisonment.

The protests and the reaction of the Establishment bear an eerie similarity to the 'Nirbhaya' gang rape of 16 December 2012 in Delhi. Following mass protests, MPs had demanded 'severe punishment' for the perpetrators[5]. The then Leader of the Opposition in the Lok Sabha had stated: "The rapists should be hanged". Speaker of the Lok Sabha had said that a "new law should be brought in to ensure the safety of women". She had gone on to say: "The laws at present are not enough, we need stricter laws"[6]. In 2013, the Criminal Law (Amendment) Act, 2013 was promulgated amending IPC, Cr.PC, Evidence Act and POCSO (Protection of Children from Sexual Offences). New offences were defined, punishments were enhanced and later following protests over the imminent release of the main accused, who was a juvenile at the time of the offence and was released on 20th December 2015, even the Juvenile Justice (care and protection of children) Act 2015 was promulgated on 1st January 2016, allowing for trial as adults for certain categories of juveniles!

In 1983, when the rape law was amended for the first time, following protests against the adverse judgment in the Mathura rape case[7], a mandatory minimum punishment of seven years was prescribed for all rapes and 10 years for aggravated rapes. In 2013, when the rape law was amended again after 'Nirbhaya', the earlier discretion to award less than the minimum prescribed punishment was taken out. In case of conviction, the courts had no choice but to award the prescribed punishment.

[4] However, this Criminal Law (Amendment) Ordinance, 2018 has been challenged in the Delhi High Court by an NGO on 1st June 2018

[5] 'Delhi bus gang rape: Uproar in Indian parliament'. BBC News. 18 December 2012. Retrieved 19 December 2012.

[6] 'Delhi gang-rape: Need stronger laws, says Meira Kumar'. DNA. Indo-Asian News Service. 19 December 2012. Retrieved 19 December 2012

[7] The 'Mathura rape case' was the alleged custodial rape on 26 March 1972, wherein a young tribal girl, was raped by two policemen in the Desaiganj Police Station in Gadchiroli district of Maharashtra. After the Supreme Court acquitted the accused, there was public outcry and protests, which eventually led to amendments in the law via The Criminal Law (Second Amendment) Act 1983.

Umesh Sharraf

It is interesting to see how this has played out in terms of rape reporting in the country. In 1983, there were 6,019 reported cases, which increased to 9,099 in 1988 and 9,519 in 1990. From then onwards, there has been a steady increase year after year. In 2012, there were 24,023 cases. This was the year when POCSO was enacted. The Criminal Law Amendment Act was passed in 2013. Instead of a deterrent, that year saw a sharp increase of 8,500 cases and a further increase of 3,000 cases in 2014, peaking at an all-time high figure of 36,735 cases. A slight drop of 5.7 per cent was seen in 2015 when the numbers came down to 34,651 cases. But again in 2016, this figure increased to 38,947 cases.

It can be argued that the increase was due to a greater awareness because of media campaigns. However, better reporting did not lead to higher conviction rates and increasing the quantum of punishment did not obviously have the desired impact.

Reduction/Prevention of Crime- deterrence, incapacitation, persuasion

Human societies have always sought to reduce the frequency and severity of crime and all societies evolved different techniques for dealing with crime. By and large, these crime reduction or prevention techniques have several features in common.

The first technique is to ensure that the potential criminal understands that he has far more to lose than to gain from committing the crime. This is basically disincentivising the act of crime or it may also be called as deterrence. A useful example of this would be punitive damages for economic crime which removes all gains of the criminal by seizing and attaching properties gained from such crime. The second method would be to incapacitate the criminals by sending them to jail, executing them, sending them away from the places they commit the crime in (externment) or otherwise make it impossible for them to commit crime.

The third method would be to persuade the criminal not to undertake the action by rehabilitation, re-education or shaming him and convincing him that his action is wrong. De-addiction programmes or Counselling programmes are examples of this. Preventive methods also include proactive prevention which have broad implications including eliminating or reducing the cause of crime such as poverty. Intelligence actions especially in dealing with organized crime or terrorism also fall under this category.

Prevention vis-à-vis Punishment

All these methods have different overlaps. Punishment, per se, may have features of incapacitation or deterrence or even reform. While many people use the word 'prevention' while talking of the effect of punishment, what they really mean is 'deterrence', because punishment can only follow crime, not precede it[8].

If one was to cite a moral justification for punishment, it can be broadly classified into two categories: Reductivism or Retribution. Retribution justifies punishment on the ground that it is deserved by the offender whereas Reductivism justifies punishment on the ground that it helps to reduce the incidence of crime. There are other philosophies also which include elements of both reductivism as well as retributivism. Reductivism is a forward looking or consequentialist theory. It seeks to justify punishment by the so called future consequences. It is hoped that with punishment the incidence of crime will be less than what it would be if there was no punishment. These ideas are also utilitarian in the sense that those actions which produce the greatest happiness of the greatest number of people have moral worth. But does punishment really reduce crime? Let us examine its impact on deterrence. Deterrence is the idea that crime gets reduced because of people's fear of the punishment that they may receive if they commit a crime. Deterrence can be both: individual or general. *Individual deterrence* happens when somebody who commits the crime is punished for it and finds the punishment so unpleasant that offence is never repeated for fear of the same. This appears reasonable but unfortunately it does not seem to work too well in practice.

If individual deterrence did work and if we had a new kind of harsh punishment, the offenders who underwent the new harsh punishment would be less likely to reoffend than similar offenders who underwent more lenient penalty. This was the logic behind the introduction of the concept of "Short Sharp Shock Detention System" for young offenders by the UK Government in the early 1980s[9]. However, these centres with the new harsher penalties

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[8] *It may be noted that IPC punishes „preparation to commit crime" only in 3 sections: 122,126 & 399*

[9]*https://thatchercrisisyears.com/2013/01/14/short-sharp-shock-thatcher-takes-on-the-wayward-youth/*

were no more successful than detention centres with unmodified regimes in terms of recidivism rates of their ex-inmates. In fact some other research suggests that offenders who suffer more serious penalties are more and not less likely to reoffend (Taylor et al, chapter 5).

This may appear to be contrary to intuition but it is not difficult to understand. Overall, punishment has other affects which cancel out the affects of deterrence. These are known as labelling affects. Catching and punishing offenders labels and stigmatizes them as criminals and very often this act as a self-fulfilling prophecy which makes it more difficult for them to conform to law abiding life in future. They may find respectable society and lawful opportunities closed to them while unlawful ones get opened-up. Our jails are notoriously known as schools for crime where offenders meet each other, learn criminal techniques and enter into a criminal subculture. Harsher penalties in particular, could foster a tough macho self-image in young men who predominate in criminal statistics.

The other deterrent effect is known as general deterrence. This is the idea that once the criminal is punished it may send a signal to the rest of the society that it does not pay to commit the crime. There is some evidence that general deterrence can be improved if potential criminals" perceived likelihood of punishment is increased. But there is little evidence that more serious punishments can deter any better than more lenient ones. Hence, general deterrence might well form the basis of a plausible general justification for having a system of punishment. But there is no justification to argue that the amount of punishment is justifiable by only deterrent considerations.

Deterrence is based on the classical Economic theory of "rational choice" which is based on the assumption that people weigh costs and benefits of an action whenever they take a decision. This implies that criminals have knowledge of the criminal sanction and make a rational choice whether or not to commit the crime based upon that knowledge. The rational choice theory, however, does not satisfactorily account for a large proportion of criminals who may be considered irrational. Such irrationality can range from mental impairment to drug addiction or intoxication or those who act in a manner contrary to their own best interest. Regardless of what economists might hypothesize, people are not perfectly rational and do not always make decisions that are in their own best interests.

Behavioural Economics accepts that people make decisions on the basis of imperfect knowledge, rules of thumb and with limited will power. People are also subject to a number of cognitive biases which influence the decision making in irrational ways that may be predictable, at least in hind sight! Consistent finding in research is that increases in the certainty of arrest and punishment demonstrate a significant deterrent effect. Perception about the certainty of arrest, for example, may counter the "present bias" [10] and reinforce the potential cost of committing crime.[11] Certainty and not the severity of punishment is the chief deterrent for most crimes. However, homicide is influenced by severity, possibly reflecting the differences between homicide and other crimes.[12]

While it is a futile exercise to imagine the criminal mind to be a completely rational mind, in the sense that economists define rationality, there is no gainsaying the fact that a large proportion of criminals would at least exhibit some kind of bounded rationality. Hence, the quantum of punishment, the certainty of punishment and the immediacy with the punishment is awarded: all will have a certain impact on the occurrence of crime. It is also accepted, by and large, that the certainty of punishment is much more of a deterrent than the quantum of punishment and so is its immediacy.

The proportion of the guilty who are convicted of their crime can be described as a product of the following four factors: proportion of offences reported to the police, proportion of reported cases registered by the police, proportion of registered cases finalized and charge-sheeted by the police and the proportion of charged cases ending in conviction.

Proportion of cases reported to the police: In the absence of authoritative crime victimization surveys, it is difficult to put a number to this figure. A CHRI (Commonwealth Human Rights Initiative) crime victimization survey done in 2015 found that the proportion of cases of sexual harassment reported to police (they did not collect data on rape) was as low as 7.5% in

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[10] *The 'present bias' refers to the tendency of people to give stronger weight to payoffs that are closer to the present time when considering trade-offs between two future moments*

[11] *Donald Ritchie, April 2011, Does Imprisonment Deter? A Review of the Evidence, Sentencing Advisory Council, www.sentencingcouncil.vic.gov.au*

[12] *Bailey, William C. and J. David Martin (1974). Crime and Deterrence: A Correlation Analysis. Journal of Research and Crime and Delinquency, 11, 124-143*

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Delhi and 11.1% in Mumbai[13]. The percentage of rape/sexual assault cases reported to the police in the USA, for instance is about 23%[14]. Considering the social stigma still attached to such victims in India, it would be a safe assumption, for the limited purpose of making the point in this article, to take this ratio as 20% for our country.

Proportion of cases registered by the police: The same CHRI survey had found that about 50% of all the reported cases were not registered by police.

Proportion of cases charged: *Crime in India-2016*[15] gives the charge-sheeting rate for rape and sexual assault as 87%.

Proportion of cases convicted: *Crime in India-2016* gives the conviction rate for rape and sexual assault as 23.1%.

Therefore it can be surmised that the approximate proportion of those guilty of rape/sexual assault getting convicted is a product of 0.2 X 0.5 X 0.87 X 0.23= 0.02 or 2%! Essentially, about 1 in 50 guilty stands to be convicted after trial (without accounting for appeals and revisions!). Having established that the punishment is not certain, we have to ask whether it is it swift enough.

Crime in India-2016 also reveals that for these two heads of crime the police disposed off 120510 out of 169993 under investigation cases. Similarly, the courts disposed off 54950 out of 475207 pending trial cases. Therefore it can be shown that the average time taken by the police and the courts to dispose off a case under these two heads of crime at the present rate of disposal is 169993/120510 plus 475207/54950 years, i.e. 10 years. Thus, on an average, about 1 in 50 guilty of rape/sexual assault stands to get convicted about 10 years after having committed the crime! Hence, despite the shrill public discourse of 'hanging the rapists', the fact is that the perceived deterrence to sexual offenders is not going to happen because the probability of the conviction is too small and too distant.

The next purpose of punishment could be reform or rehabilitation. The idea that punishment can reduce the incidence of crime by improving the individual offender's character or behaviour and make him/her less likely to

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[13]*http://www.humanrightsinitiative.org/download/146166128Crime%20Victimisation_Soft%20file_distribution*

[14] *National Crime Victimisation Survey 2016, BJS, USA,*
https://www.bjs.gov/content/pub/pdf/cv16.pdf

[15] *Crime in India 2016, National Crime Records Bureau (NCRB) annual publication*

reoffend in future is still highly popular in India. Many proponents of reform including the heavily influential positivistic theorists of crime favour this ideal called the 'treatment' model. This views criminal behaviour not as "freely willed" action but as a symptom of some kind of mental illness that should not be punished but be treated like an illness. However modern research has suggested that penal measures intending to reform offenders are no more effective in preventing recidivism than sheer punitive methods.

The present wisdom about reform in many quarters is that '*nothing works*'[16] and that whatever you do to offenders makes no difference. However, this might be an exaggeration as there are examples of reformative programmes which seem to work with certain groups of offenders[17]. There was a sort of revival of the reformative approach, especially with juvenile offenders, but that too has suffered a setback after the 'Nirbhaya' case.

The ambivalence of society about young criminals shows itself in episodic panics and outrages (as after Nirbhaya[18], Shakti Mills Rape case[19,20] or the

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[16] *Lipton, Douglas, R. Martinson, and J. Wilks, The Effectiveness of Correctional Treatment: A Survey of Treatment valuation Studies, Praeger Press, New York.*

[17] *Miceli, Victoria, Analyzing the Effectiveness of Rehabilitation Programs (2009). Senior Honors Projects. Paper 158. http://digitalcommons.uri.edu/srhonorsprog/158*

[18] *In July 2014, Minister of Women and Child Development said that the Govt. was preparing a new law which will allow 16-year-olds to be tried as adults. She said that 50% of juvenile crimes were committed by teens who thought that they get away with it. She added that changing the law, which will allow them to be tried for murder and rape as adults, would scare them. This culminated in the JJ Act 2015.*

[19] *The Shakti Mills gang rape refers to the incident in which a 22-year-old photojournalist was gang-raped by five people, including a juvenile. The incident occurred on 22 August 2013, when she had gone to the deserted Shakti Mills compound, in South Mumbai, with a male colleague on an assignment. Later, an eighteen year old call centre employee reported that she too had been gang-raped, on 31 July 2013 inside the mills complex. On 20 March 2014, a Mumbai sessions court convicted all five adult accused in both cases on 13 counts. On 4 April 2014, the court awarded the death penalty to the three repeat offenders. For the other two accused, one was awarded life imprisonment while the other accused turned approver in the case. Two minors, one in each case, were tried by the Juvenile Justice Board separately. They were convicted on 15 July 2015, and sentenced to three years (including time in custody) in a Nasik reform school.*

[20] *After being sent to a correction home in Nasik for three years for the gang-rape Akash Jadhav, then 17 years old, by 2018, had formed an underworld gang and was arrested in 3 offences subsequently. His repeat offences put paid to expectations that he would emerge a reformed man from the Nasik home.*

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Ryan school murder[21]) countered by sentimentality over 'children in trouble'[22].

The next purpose of reductivist ideas is *incapacitation* which simply means that the offender is usually physically prevented from reoffending by the punishment imposed either temporarily or permanently. The practice in some societies of chopping off the hands of thieves has this kind of incapacitatory effect! Similarly, one of the few obviously valid arguments in favour of capital punishment is that executed offender can never reoffend afterwards. Lesser penalties can also have some incapacitatory effects. Disqualification from driving does something to prevent motoring offenders from repeating their crimes! It is therefore, certainly a plausible claim that incapacitation could be a justification for certain kinds of punishments.

The *retributivist* principle that wrong doers should be punished because they deserve it is in many ways the complete antithesis of reductivism. Where reductivism is forward looking, retributivism looks backwards in time- to the offence. It is the fact that the offender has committed a wrongful act which deserves punishment, not the future consequences of the punishment, which is important to the retributivist. Retributivism therefore advocates a 'tariff' of punishments of varying severity matched to crimes of varying seriousness: punishment should fit the crime in the sense of being in proportion to the moral culpability shown by the offender in committing the crime.

Retributivism also has consonance with the fundamental principle of justice that like cases should be treated alike and that offenders have rights. Reductivist theory has always found it difficult to encompass the notions of rights even when it comes to providing entirely innocent people with a right not to be punished. For example, if you could achieve the desired reductive consequences by punishing an innocent person and if these affects are all that is needed to justify punishment, there should be nothing wrong with punishing the innocent. Retributivism has no such problem as it follows automatically that it is wrong to punish non-offenders. Nor do we need

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[21]*Pradyuman Thakur was a student at Ryan International School, who was found murdered inside a washroom on 8 September 2017 in Gurgaon. On 8 November 2017, the CBI arrested a class XI student aged 16 from the same school for the murder.*

[22] *Child Rights Activists and Women Rights Activists called the JJ Act 2015 a regressive step. Many experts and activists viewed post 'Nirbhaya' responses as creation of media sensationalisation of the issue, and cautioned against any 'regressive' move to disturb the 'momentum of Juvenile Justice Legislation' in the Country which was*

punish criminals to a greater extent than their crimes deserve. This is the reason why retributivism fits well with our commonsense intuitions and this has been the most resilient idea when dealing with crime and punishment. Hence, often when people talk of 'justice', what they really mean is 'retribution'.

Another justification for punishment is denunciation which is basically the idea that punishment demonstrates society's abhorrence of the offence. As with general deterrence, it is difficult to make very strong claims about the effectiveness of denunciation. Modern research suggests that members of the public are not influenced in their moral attitudes towards offences by the punishments which are imposed. People seem to have sufficient respect <u>for the law</u> to disapprove more strongly of an action when a law is passed against it but they do not have sufficient respect <u>for the penal system</u> to be influenced by the severity of the punishment inflicted.

The next justification for punishment would be reparation which is the notion that people who have committed the crime should do something to repair the wrong that they have done and in doing so, acknowledge the wrongness of their actions. This could take the form of compensating the victim of the offence or doing something else to assist the victim. If there is no individual victim, reparation can be made to community as a whole by performing community service or paying a fine into public funds.

Many criminologists favour this method for a large variety of crimes and 'Victim Compensation' is now being taken forward aggressively in India as well.

Other ideas relating to punishment speak of *disqualification/requalification and reintegrative shaming* of offenders. Law-breakers place themselves out of the society by committing offence but penal processes should ultimately aim at returning to them society as full members. So, punishment acts as disqualification and having undergone the punishment the offender is re-qualified for rejoining the society. Reintegrative shaming is an idea which talks of dealing with the offenders in a manner that shames them before the other members of the community, without being in the nature of a stigma that will tend to exclude them from being accepted members of the community. So, the shaming should be of a kind which serves to reintegrate them with the society by getting them to accept that they have done wrong while encouraging others to readmit them to the society. However, one is not aware of modern social systems which do this effectively.

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The 3 approaches for Control of Crime

As figure 1 shows, there are 3 distinct but overlapping approaches which have been employed in the AngloSaxon System of Justice for control of crime. The 1st is the 'injury or the harm' approach which is one of the most primitive and simple methods. This is the foundation of the penal system in our country wherein the State absorbs the harm which results due to the crime and then reacts based on the harm or the injury after the event and reacts so by imposing punishment. We have discussed the nature of punishment in the preceding paragraphs and this approach on control of crime is placed firmly in the realm of judicial oversight.

Fig.1

This punishment may have retributive (just deserved) or utilitarian philosophical underpinnings depending upon the leanings of the political executive. However, there is no denying the fact that it should be proportional to the crime irrespective of the underlying purpose, be it in the 'just deserts' model or utilitarian and individualised punishment. Proportionality is better secured in utilitarianism than in retributivism. Disproportionate sentence signifies harsh penalties for incapacitation and general deterrence. To ensure 'justice' in each and every case, punishment requires deliberations outside the nature of the crime committed and circumstances surrounding the commission. After conviction, it is obviously the duty of the judiciary to award appropriate sentence. However, the absence of statutory sentencing guidelines to assist judges in discharging this all important duty has left a vacuum in the machinery of justice dispensation

in India. Often, in cases that capture the public imagination and create a groundswell of opinion, even the judicial mind can get affected[23]. The Malimath Committee Report on Criminal Law Reform (2003) had recommended incorporation of sentencing guidelines for aiding the judiciary in deciding appropriate sentence. Even the Law Commission of India in its 262nd Report on Death Penalty recorded this disparity in sentencing on account of personal leanings of judges, as one of the factors amongst others to recommend abolition of death penalty in all crimes except terrorism related offences.

The 2ᵗʰ approach in 'Crime control' is the 'dangerous act' approach which gets over the limitation of being completely reactive. It is in this approach that 'attempts to commit crime' or 'preparation to commit a crime' etc. are tackled. It is also under this approach that restrictions are placed on free speech. These methods are usually in the combined domain of the executive as well as the judiciary.

The 3ʳᵈ and the truly preventive approach is the 'dangerous person' approach. It does not require the commission of any criminal act as a condition for intervention. The system may act against the person because it is predicted that he may commit a dangerous or harmful act at a future time. This may remind some people of the world of 'Minority Report'[24]24 but some obvious examples of the dangerous person approach are the detention of possible spies during war time, the commitment of mentally ill persons considered to be dangerous, preventive detention of habitual criminals and imprisonment of suspected terrorists. This approach is usually placed under the executive but subject to judicial review. The latest proposal of the Government for creation of a "national sex offenders 'registry' falls squarely within this domain.

As we move from the 1st to the 3rd approach, the focus also shifts from due process to crime control. A look at figure 2 would make it clear. Due process aims at increasing the bottom left quadrant of 'true positive' where

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[23] Howell-Collins, Marti Cecilia, "Court Of Public Opinion: How the Convicted Perceive Mass Media Have Affected Their Criminal Trials and Personal Lives" (2012).Mass Communications - Dissertations. Paper 90.

[24] „Minority Report" is a 2002 American film, loosely based on a short story by Philip K. Dick, where in future „PreCrime police" stops murderers before they act, reducing the murder rate to zero. Murders are predicted using three mutated humans, called "Precogs", who "previsualize" crimes by receiving visions of the future. Would-be

'not guilty' people are not punished. In fact, the aphorism is that it is better that 99 guilty are not punished rather than 1 innocent person is punished. However, there is no way the 'true positive' can be increased without also increasing the 'false negative'.

Fig.2

The emphasis of due process methods where the 'not guilty' are not punished will automatically result in larger number of 'false negative' cases where guilty people are also not punished.

Crime control processes which are based on the 'dangerous person approach' or the 'dangerous act approach' aim at shifting the horizontal line in the quadrant downwards: where the guilty do not escape punishment and the 'true negative' in the top right quadrant is increased in size. As can be seen, any effort to shift the horizontal downwards to increase the 'true negative' will also result in the increase of 'false positive' where some 'not guilty' persons will also be punished. Sadly, this trade-off is never understood by either law makers or accepted in the public discourse.

It is also not clearly understood that crime rates have nebulous relationships with all the above „crime control" methods. Culture, economic realities, change and disparities in society, educational system, globalisation, urbanisation, industrialisation and human migration are all pervasive influences on human behaviour, of which crime is only one component.

It is, for instance, now well known that crime rates in New York City dropped significantly during the 1990s. This phenomenon has been described as a "miracle" and has served as a focal point of discussions about "The Great American Crime Decline". Provocative theories have been made claiming primacy of the following: objective and perceptual economic shifts, changes in the quantity and quality of policing and punishment practices, public and personal security efforts, the stabilization of drug markets,

increases in immigration, changes in abortion laws, regulations of and changes in lead gas exposure, increased video gaming, rising civility and self-control, transformations of family arrangements, reduced alcohol consumption, and increased use of psychiatric pharmaceutical therapies. In fact, the 2nd ARC[25] quoted with great approval the implementation of the "Broken Windows"[26] theory holding it responsible for this miraculous crime decline and advised its vigorous implementation in India. However, within the USA itself, till today, there is no consensus on what really caused this decline!

The Dirty Harry[27] Problem

Our appellate Courts especially, devote a significant portion of time and effort to police supervision. There is an unstated assumption that the courts are responsible for the maintenance of the Constitution and are, therefore, the primary control point in the criminal justice system. While this is theoretically true, it obscures the fact that it is the police who have the most dramatic impact upon the implementation of the principles of the Constitution. If the police choose to disregard these principles in one-on-one confrontations with the public, there is little either the individual or the court can do. The stronger the belief in the Constitution held by the police, the greater the likelihood constitutional rights will be honoured. If law enforcement officers believe that the Constitution is a mere rulebook whose only purpose is to thwart police effectiveness, it is likely to be ignored. The substantive law of crime is intended to control the behaviour of people who

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[25] *The Second Administrative Reforms Commission (ARC) was constituted on 31.08.2005 for preparing a detailed blueprint for revamping the public administrative system & its 15 reports were submitted between June 2006 & April 2009.*

[26] *The „broken windows" theory is a criminological theory that visible signs of crime, anti-social behavior and civildisorder create an urban environment that encourages further crime and disorder, including serious crimes. The theory thus suggests that policing methods that target minor crimes such as vandalism, public drinking and fare evasion help to create an atmosphere of order and lawfulness, thereby preventing more serious crimes. The theory was introduced in a 1982 article by social scientists James Q. Wilson and George L. Kell ing. It was further popularized in the 1990s by New York City police commissioner William Bratton and Mayor Rudy Giuliani, whose policing policies were influenced by the theory.*

[27] *Dirty Harry is a 1971 American film featuring fictional San Francisco Police Department Homicide Division Inspector "Dirty" Harry Callahan who is notorious for being extremely violent and ruthless in his*

wilfully injure persons or property or who engage in risky behaviours. Criminal procedure, by contrast, is intended to control authorities, not criminals. A harmonious balance between 'procedure' and 'punishment' needs to be maintained, taking into account socio-cultural realities.

Inadequacies of law to deal with the problem of crime are then otherwise dealt with by the police with patently unlawful methods, often with wide public support and enthusiastic endorsements by the politicians in power. A look at figure 3 makes this conflict between 'means' and 'ends' clearer. The Second Administrative Reforms Commission (ARC) was constituted on 31.08.2005 for preparing a detailed blueprint for revamping the public administrative system & its 15 reports were submitted between June 2006 & April 2009.
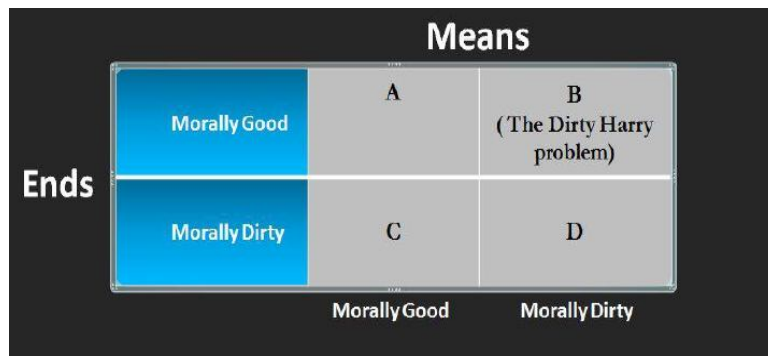
Fig.3

When the ends to be achieved are urgent and unquestionably good and only a dirty means will work to achieve them, the policeman faces a genuine moral dilemma. In such situations in policing, or 'Dirty Harry problems'[28] the danger lies not in becoming guilty of wrong- that is inevitable- but in thinking that one has found a way to escape a dilemma which is inescapable. Dire consequences result from this misunderstanding. Policemen lose their sense of moral proportion, fail to care, turn cynical, or allow their passionate caring to lead them to employ dirty means too crudely or too readily.

The only means of assuring that dirty means will not be used too readily or too crudely is to punish those who use them and the agency which endorses their use. While many democracies, including us, have adopted the "way of

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[28] *Carl B. Klockars, The Dirty Harry Problem, Annals of the American Academy of Political and Social Science, Vol. 452, The Police and Violence. (Nov., 1980), pp. 33-47.*

the hypocrite" where the law enforcement agencies are allowed to operate beyond the pale of law, while the State pretends that such action is without sanction, especially to deal with terrorism; the real danger is when this "way of the hypocrite" is used to deal with even ordinary crime.

Conclusion

This article has discussed the complexities of 'crime control' while assuming that the different wings of the Criminal Justice System work with the efficiency and effectiveness that is required as per their design. However, the reality is that our crime work is seen as insensitive, inefficient and corrupt. We do not use available scientific investigative methods, our investigative skills are not up to the mark and we do not prosecute our cases well. Hence, many of us become 'Dirty Harry' not out of a passionate desire to right a wrong but as a shortcut to cover up our failure to do the hard yards of regular basic policing. A public discourse that reacts to every horrific crime with cries of more and more punishment does no service to the need to simplify our procedural law, improve basic policing systems and increase the faith in the rule of law in the common man. Lighting candles at India Gate or disrupting Parliament are not the solution.

Seen as a proportion of population our crime figures, including sex offences, are possibly the lowest in the world. The real concern is not that the crime rate has increased or is alarming, but the fact that almost every crime is followed by public agitation, street protests and even violence. This cycle of violence is due to the public perception that justice will not be done in the normal course and the culprit, especially the politically influential and/or the rich, may get away with even murder. Loss of faith in the fairness of the system and the perception that one cannot expect justice are the first few steps to the slippery slope of anarchy.

A great majority of acquittals in our system are on 'technical' grounds. Verdicts are often divorced from reality and fact, as seen so clearly in the infamous Jessica Lal[29] murder case. Reform of the criminal justice system

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[29] *Jessica Lal, a model, was shot dead on 30 April 1999. Dozens of witnesses pointed to Manu Sharma, the son of a wealthy and influential Member of Parliament, as the murderer. In the ensuing trial, Manu Sharma and a number of others were acquitted on 21 February 2006. Following intense media and public pressure, the Delhi High Court conducted proceedings on a fast track with daily hearings conducted over 25 days. The trial court judgment was overturned, and Manu Sharma was found guilty of having murdered Lal. He was sentenced to life imprisonment on 20 December 2006.*

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(CJS) cannot be based on merely importing paradigms from abroad. We need to tailor good ideas to the Indian realities.

The new CrPC of 1973, for instance, separated Prosecution from Police, based on the concept of an Independent Prosecution, without ensuring that the said Prosecution wing had the same accountability that the Police have. Today, almost everywhere, Prosecution is the weakest link in the entire chain of the CJS. The Supreme Court of India in Criminal Appeal No. 1485/2008 in the case of State of Gujarat Versus Kishanbhai etc. had expressed concern about acquittal of cases due to lapses on the part of Investigating Officers and Prosecuting Officers and also directed that a Standing Committee should be formed to point out lapses, if any, on the part of Prosecuting / Investigating Officers and necessary action be taken against them on the recommendations of the committee. However, this „band-aid" cannot cover the wound caused by the absence of an agency having combined control over investigation and prosecution.

Chapter XXXIA on plea bargaining', for instance, was tagged on to CrPC in 2005 without appreciating the significantly lower conviction rates in India, and it has remained a dead letter[30].

A good example of 'Hard cases make Bad Law'[31] is the Nanavati case[32] that resulted in the abolition of the jury system in India and made criminal trial hinge on excessive focus on the 'procedure'. While the desirability of the jury system or otherwise can be debated, the limited point being made here is that knee jerk reactions to cause célèbres may not lead to the anticipated results.

During discussions on the proposed National Sex Offenders" Registry, the author impressed upon the dramatis personae also for the urgent need to overhaul the Identification of Prisoners" Act of 1920 vintage and to relook at the 87th report of the Law Commission submitted on this subject way back

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[30] *Sharraf, Umesh, The Chimera of Plea Bargaining, Indian Police Journal, January-March 2017*

[31] *'Hard cases make bad law' means that an extreme case is a poor basis for a general law that would cover a wider range of less extreme cases. In other words, a general law is better drafted for the average circumstance as this will be more common.*

[32] *'K. M. Nanavati vs. State of Maharashtra' was a 1959 case where Nanavati, a Naval Commander, was tried for the murder of his wife's lover. The incident received unprecedented media coverage and inspired several books and films. The accused was initially declared not guilty by a jury, but the verdict was dismissed by the Bombay High Court and the case was retried as a bench trial. The government abolished jury trials soon after.*

in 1980. There are several such reforms that have been recommended in reports of the Law Commisions, Malimath Committee and other commissions that have remained on paper.

The burden of this song is that there is no escape from instituting a large scale reform of the CJS. Piecemeal tinkering of the law may salve the conscience of the lawmakers but will not lead to true crime prevention.

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Study of Facebook:
Usage Trends among Students
&
Precautions based on Findings

VARUN KAPOOR, IPS*

The Study

Facebook is a popular free social networking website that allows registered users to create profiles, upload photos and video, send messages and keep in touch with friends, family and colleagues. The site, which is available in 37 different languages, includes public features such as:

- Marketplace - allows members to post, read and respond to classified ads.
- Groups - allows members who have common interests to find each other and interact.
- Events - allows members to publicize an event, invite guests and track who plans to attend.
- Pages - allows members to create and promote a public page built around a specific topic.
- Presence technology - allows members to see which contacts are online and chat.

Facebook offers a range of privacy options to its members. A member can make all his communications visible to everyone, he can block specific connections or he can keep all his communications private. Members can choose whether or not to be searchable, decide which parts of their profile are public, decide what not to put in their news feed and determine exactly

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who can see their posts. For those members who wish to use Facebook to communicate privately, there is a message feature, which closely resembles email.

Facebook was developed by the legendry Mark Zukerberg in the year 2004 and has its head office at Menlo Park, California. Since its inception Facebook caught the fancy of the citizens the world over and started growing in number of users at an explosive pace. It is estimated that it took a mere **2 years** for Facebook to reach a target audience of **5 Crores** individuals. Today the Wikipedia estimates that Facebook has **171 Crore** active monthly users. This indeed is a huge number and this is ever increasing.

Just imagine – the total world population is approximately 700 Crores and if out of these 171 Crores are just on one platform – such a platform is a huge power. This power is mostly for the good but unfortunately this power is often for things which are far from good. Such things which adversely affect not only individuals but many a times the society as a whole. Today we can reap a number of benefits from intelligent and diligent use of Facebook and other similar social networking platforms. Such advantages are known to all and need not be reiterated. However today these platforms and sites have become a huge source of crime. You name it and that crime takes place on Facebook and the like. Crimes like Cheating, Embezzlement, Defrauding, Impersonation, Black-mailing, Defamation, Breach of contract etc – the list is endless – occur with impunity on Facebook and other platforms of social networking.

In addition people meet and make friends with total strangers online. They do not know the person in the real world and in fact have never met face to face ever but still the friendship flowers online. Then they go and meet the stranger offline and many a times it results in such heinous real world crimes like kidnapping, murder, rape etc. Thus we can safely conclude that Facebook and other social networking platforms are fast becoming a vast hunting ground for all sorts of criminal elements and all types of crimes are occurring through them.

It is also clear today that these sites have also become a leading cause of social unrest. In India too a number of social unrest and agitations were based on people to people contact over Facebook. They were organized on line and spread through social networking sites. The leading examples are Patidaar agitation in Gujarat; Kashmir agitations; Jaat agitation in Haryana etc. The first thing that the authorities do in such situations is to suspend sms

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service and mobile internet, to control such mass agitations that are orchestrated and spread through social networking sites. Not all such agitations are for an ignoble cause – the Anna Hazare movement against corruption is a case in point. This agitation in which social networking played an important role in planning and execution – was indeed for a great cause which was supported by large swathes of the populace. Similar was the Velvet revolution that convulsed one Arab country after another in North Africa and the Middle East. This was also for a good cause – it was against long running dictatorships in these countries which violated human rights and abrogated human values.

Keeping the above facts in view it is absolutely essential to find out the trends in usage of this all important service at the present time. It is also very useful to know the amount of time spent by our youth and children in this social networking activity. We also need to find out the behavior of our students and children, whether they are secure or not, while they are doing such activities. In fact there are a host of other reasons for which a close study of Facebook usage amongst students and children is the need of the hour. This will also point out the shortcomings in the way they use this service so that effective and quick remedial measures can not only be recommended but also implemented.

This study was conducted from February till August 2016. A detailed questionnaire was drawn up, this contained 25 questions. For administering this questionnaire, 250 students of standard 10th, 11th & 12th were selected from five schools of the city. This included both private and government schools. In addition a sample of 250 college students was selected from five different colleges. Again these colleges include Private as well as Government colleges. The effort was to make the study as representative and widespread as possible. The results of the 500 participants were collected, collated and analyzed and a final report was prepared on this basis. This report has thrown up some interesting facts and figures – which show distinctly the current trends of Facebook usage amongst the student community of Indore.

DATA ANALYSIS

The answers received for the various questions asked threw up some interesting, revealing and startling facts. Let us analyze the findings of each question:

1. **How many Facebook (Fb) friends do you have?**
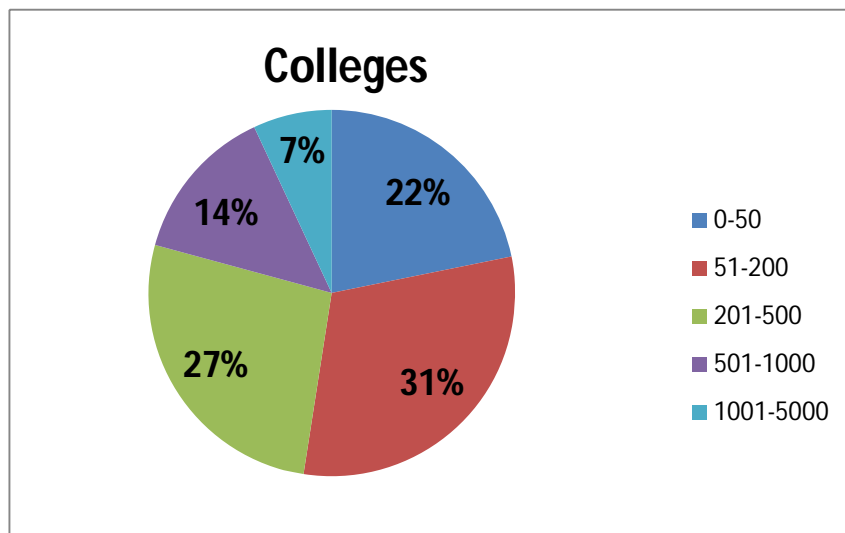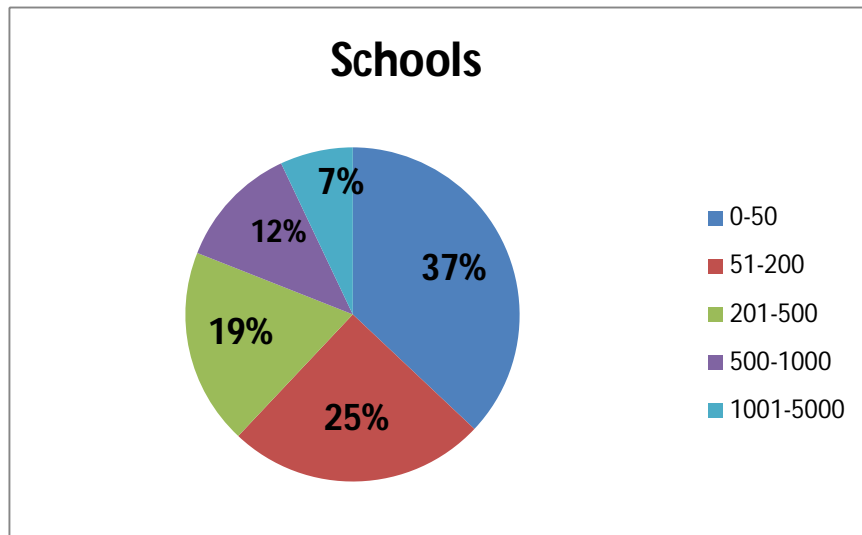
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An analysis of these responses shows that a large chunk of school children, that is 44% say that they have 50-500 friends. That means almost half the school students surveyed say this. This goes up even further in the case of College students. Amongst college going students 58% say that they have a friend list of 50-500 id's. These are huge number and a vast number of friends to have on the virtual friend list.

It is recommended that only such friend requests should be accepted where the individual knows the person sending friend request in the real world. Otherwise accepting a friend request of an unknown person is fraught with all kinds of dangers. Thus it is evident that the school/college students who have a friend list going up to 500 – will actually not even know many of them in the Real world. Thus this kind of activity is highly risky behavior!

2. How many Facebook groups are you member of?
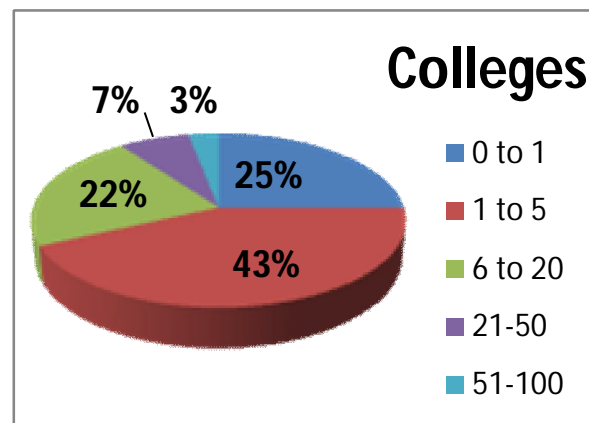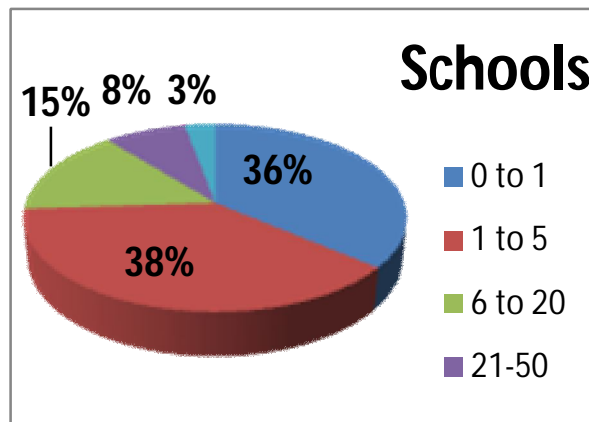
Responses to this question shows that 38% school students are members of at least 1 group and this number can go up to 5 groups. Whereas is Colleges this jumps to 43%. It is also evident that 36% School children are not members of any group whereas it is 25% in case of College students.

Another finding is the Schools students in larger numbers use Facebook but do not become members of any group (36% vs 25%). Thus in a way School students are less exposed to the harms of group membership.

3. How many hours do you spend on Facebook?
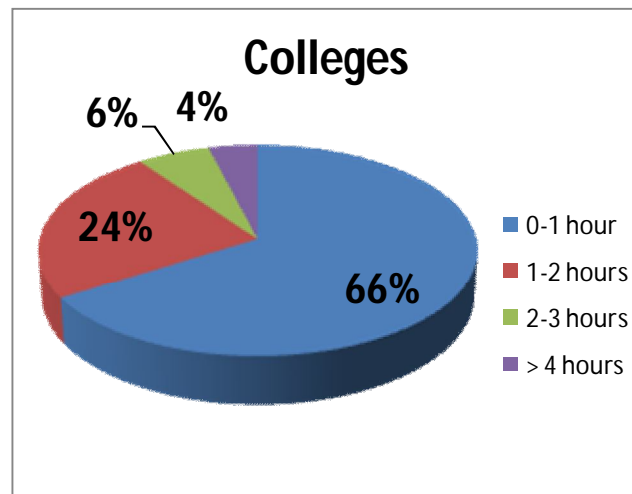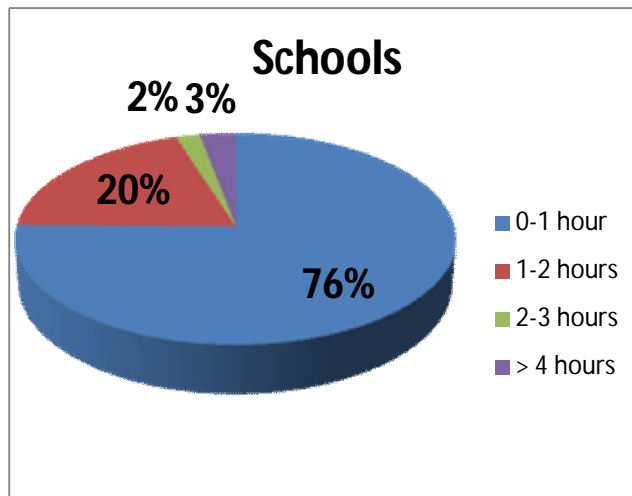
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The response to this question is rather startling. Majority of School (76%) and College (66%) students admit that they hardly use the Facebook service. However in College students 30% students say that they use the Facebook for 1 to 3 hours a day. This is definitely a relatively large figure and coupled with 29% College students saying that they use the WhatsApp for more than 4 hours a day (in an earlier study), the figure of virtual space social networking by youth and teenagers in this country becomes a rather large and significant figure.

Though no data exists to link the two usage times (Facebook & WhatsApp) – if there is indeed a link that those who use more than 4 hours WhatsApp a day are the ones who also use 1 to 3 hours Facebook a day – the we have a huge group of College goes who use over 7 hours of Facebook and WhatsApp combine in a day. This indeed is a very large portion of the productive time of the teenager or college going youth in the country.

4. **How often do you post status updates on Facebook?**

College

- Several/day
- Once/day
- Few/week
- Once/week
- Less than weekly
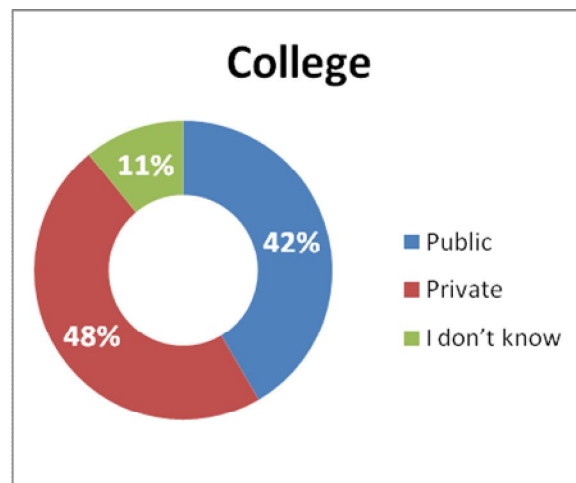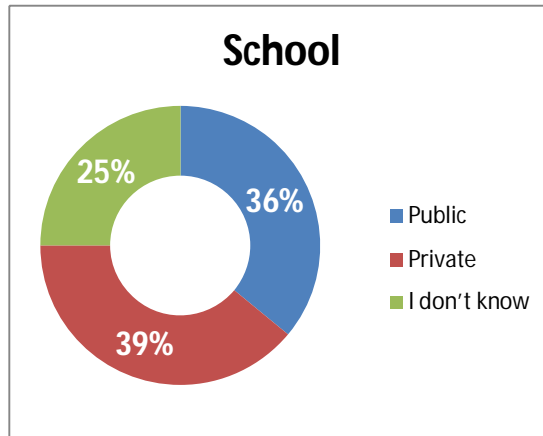- Never

4% 8% 13% 13% 30% 32%
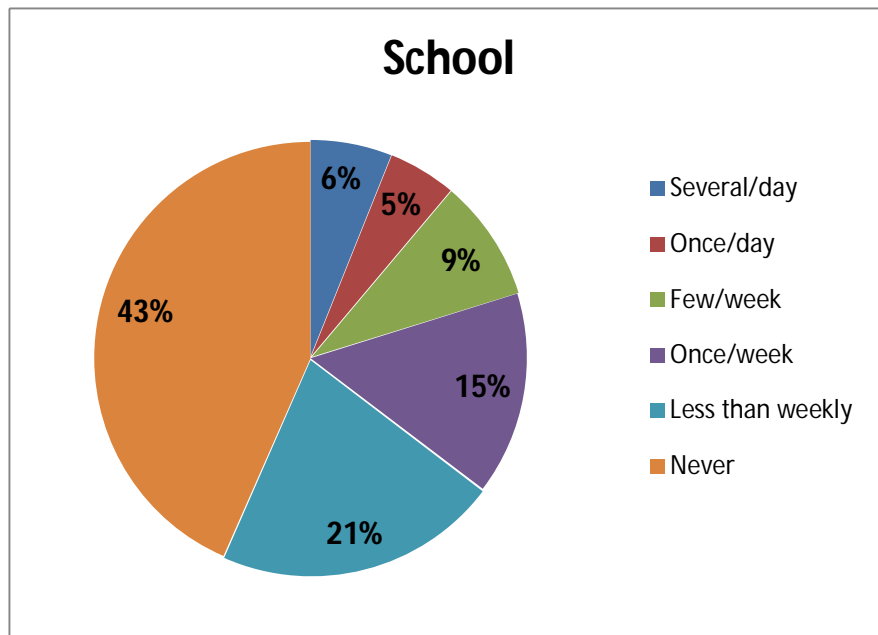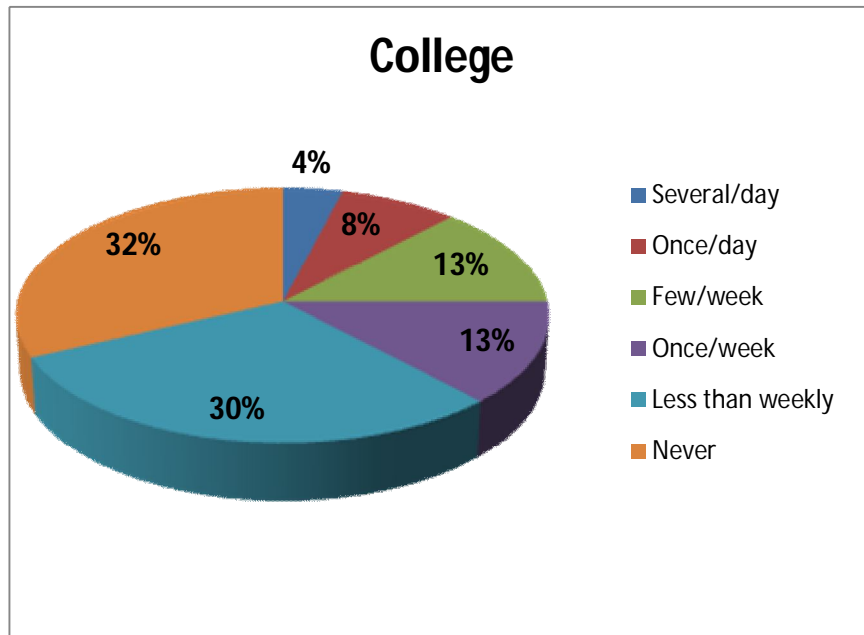
The analysis of the answers to this question reveals another hitherto little known fact that 43% School and 32% College students say that they never post status updates on Facebook. This means that they use Facebook as a means of checking out the happenings in the social media sphere – never themselves posting anything to disclose their activities, likes, opinions or ideas. This means that they are that much more secure. Otherwise – repeated and continuous posting of status and other things, if not securely and smartly done – does expose the user to harm. This is also a revealing finding as hitherto it was believed and in fact assumed that school and college students are posting their status updates often and in increasing numbers on the social networking sites.

Having said this we must also take note of the fact that there are 11% school and 12% college students who are posting their status updates and other data daily on the Facebook and hence other such social networking sites. This figure in the Indian context is very large because of the sheer numbers of the students that are involved. They have to be made aware of the dangers of reckless posting and have to be sensitized regarding the safety measures to be always adopted and adhered to when doing status updates.

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5.   <u>**Are your Facebook posts public or private?**</u>

School

- Public
- Private
- I don't know

36% Public, 39% Private, 25% I don't know

College

- Public
- Private
- I don't know

42% Public, 48% Private, 11% I don't know

Those who routinely keep their post setting as "Public" are the ones who may be subject to phishing attack or some form of social engineering attack. Their Passwords can also be cracked using the personal information on display in their Facebook account. Thus they are the ones who are exposed to maximum harm and are the ones to be targeted for awareness initiatives.

The "I don't know" response also indicates the fact that these individuals are the ones who are also in harm's way – as they do not know that there is a setting in posting status updates. As this setting by default is "Public" – we

can safely assume that those who have replied to the question with "I don't know" – have their setting as "Public"!

With this in view if we analyze the findings we will see that a overwhelming majority of School students (61%) are open to all types of cyber attacks and crimes as they have kept their posts "public". In the case of College students this figure comes down to 53%, but this still puts more than half of College students also in the danger zone. *This finding clearly points to the necessity of cyber security awareness amongst students of all categories and ages. It also highlights the urgent need for promoting cyber security education in Schools and Colleges. This is a sphere of activity that the Government must urgently consider and launch at the earliest.*

6.   Do you use Video Chat option for Facebook messaging?
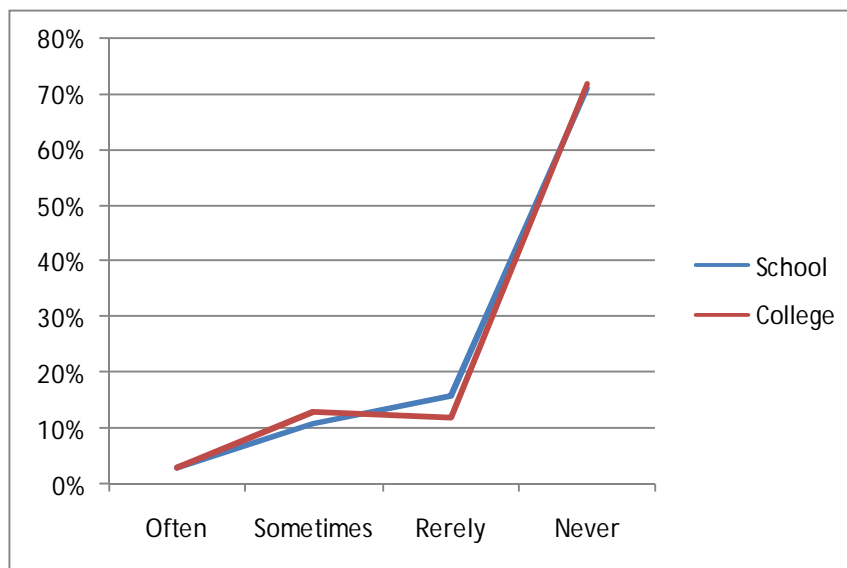
Analysis of this question shows that Video chat option in Facebook is rarely used by students of schools and colleges alike. Almost 3/4th of students do not use this feature.

7. Are you friends with your parents on Facebook?
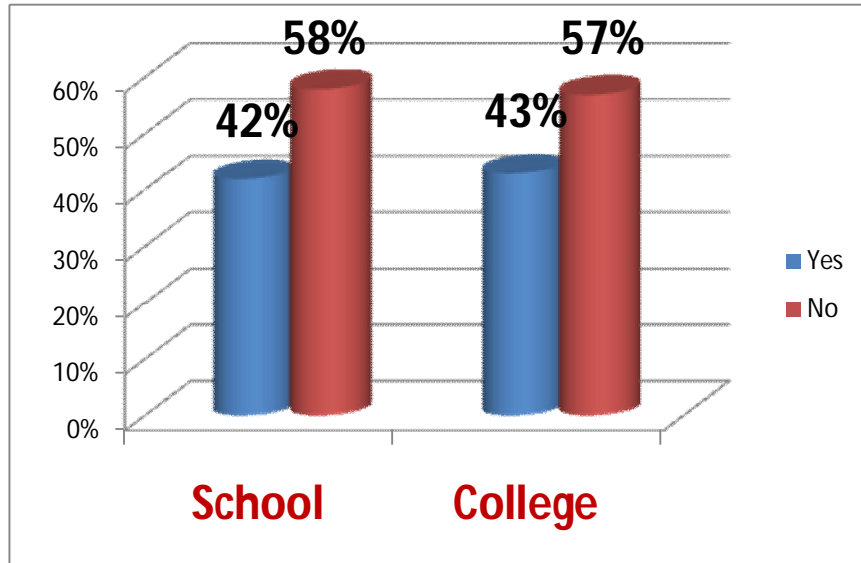
Again in this question we get almost identical responses from School and College students. The predominance is for the negative answer in both categories surveyed. In Schools 58% students and in Colleges 57% students admit that they do not have their parents in their friend list. It is surprising that School children in a slightly higher proportion say that their parents are not their friends in the virtual space. This is indeed a worrying trend both from the point of view of the children as well as the parents.

In this way the children/youth are exposed to greater reckless behavior as they are not under the watchful eyes of their parents. On the other hand the parents are abdicating their responsibility of monitoring and mentoring the use of the cyber space by their next generation – hence an important aspect of parenting is being involuntarily neglected. I say involuntarily because many parents do not themselves realize that they need to monitor their children's social networking activities too! Thus in addition to the children/youth – the parents too need guidance and awareness regarding safe internet/cyber space usage!

8.   Do you click on Facebook ads?
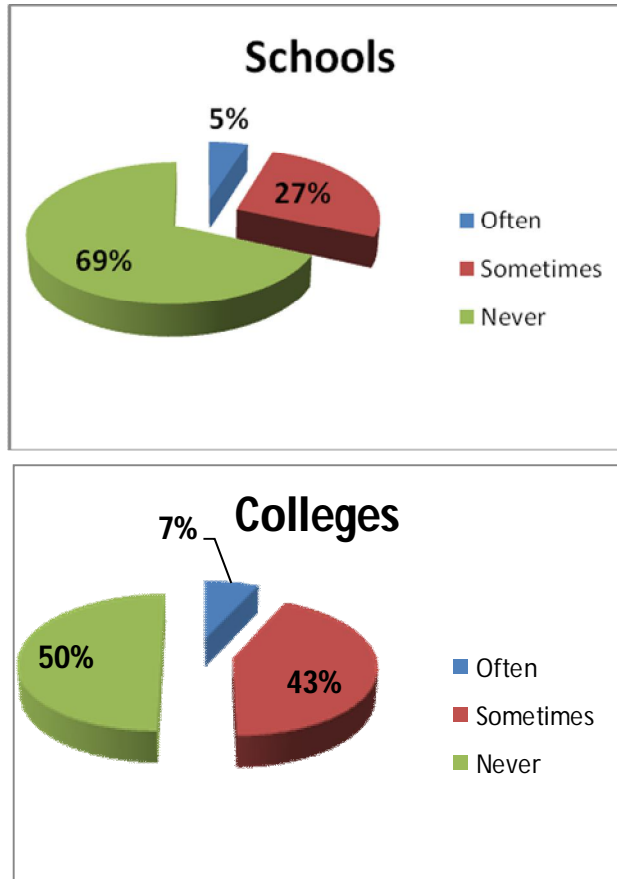
The analysis of the answers to this question throws up the specific fact that College students in much larger numbers (50%) click advertisements on Facebook than School students (32%). The reason is simple – as most ads have to do with marketing a product, greater financial freedom of college students puts them in a better position to purchase the advertised goods and services. Hence their attraction towards knowing product details is greater and hence the higher rate of clicking of Facebook based advertisement links. But with keener interest in ads should also come a clearer emphasis on security aspects of the social networking world. This is an issue which must be dealt with more vehemently with College going youngsters.

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9. **Which photograph have you uploaded as your profile pic?**

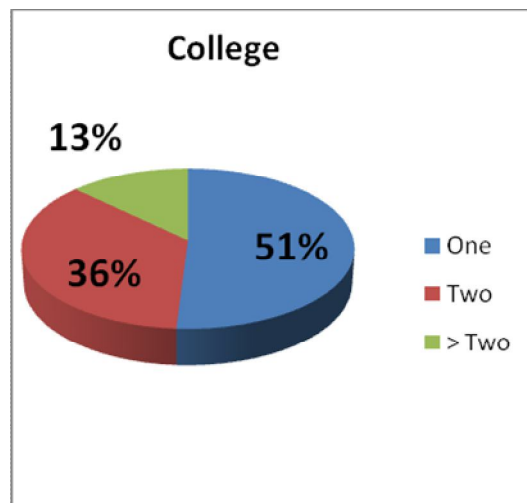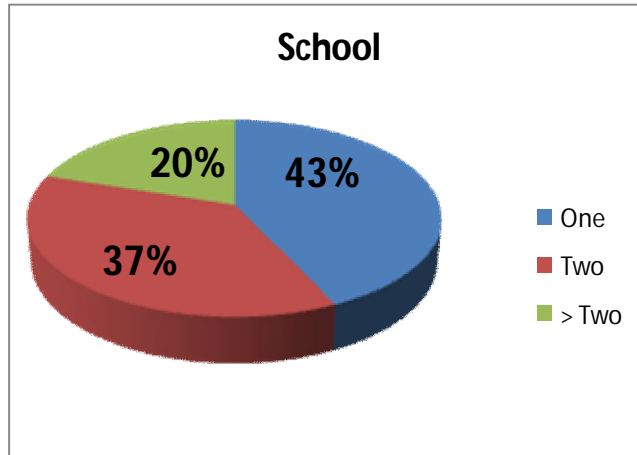**57%** **School**
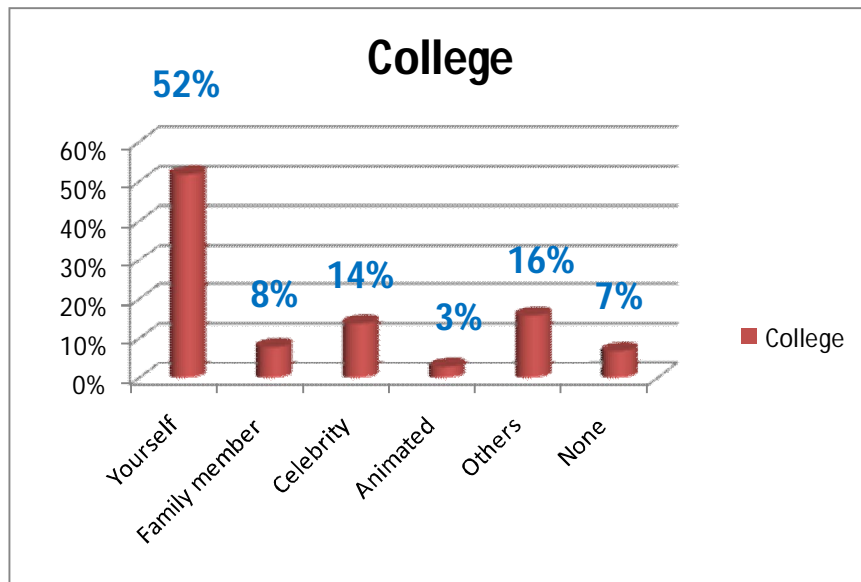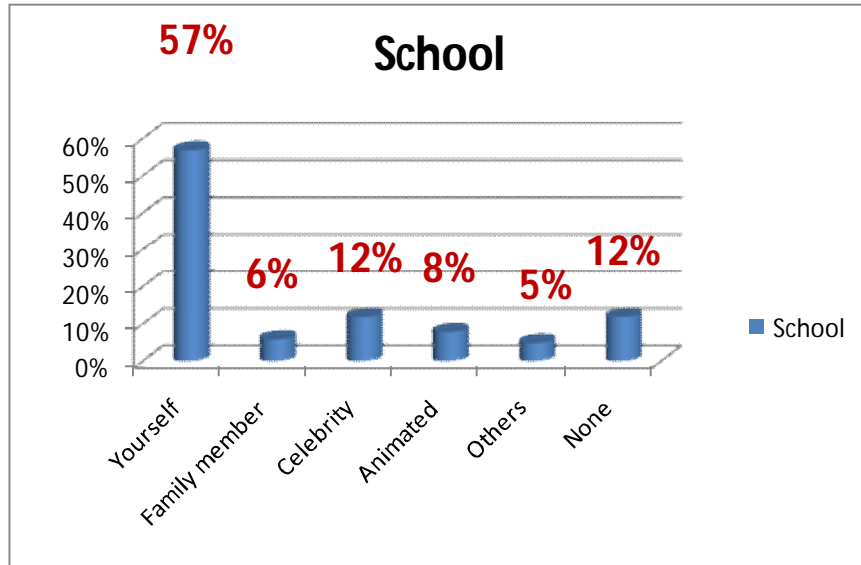
52% **College**

Overwhelming proportion of School (57%) and College (52%) students agree to putting their own pictures as their profile pic. This in itself is a risky proposition because this photograph maybe misused. It is always advisable

not to use one's own photograph in his/her profile picture space. Second comes the category of Celebrities.

10. Do you have more than one account on Facebook?
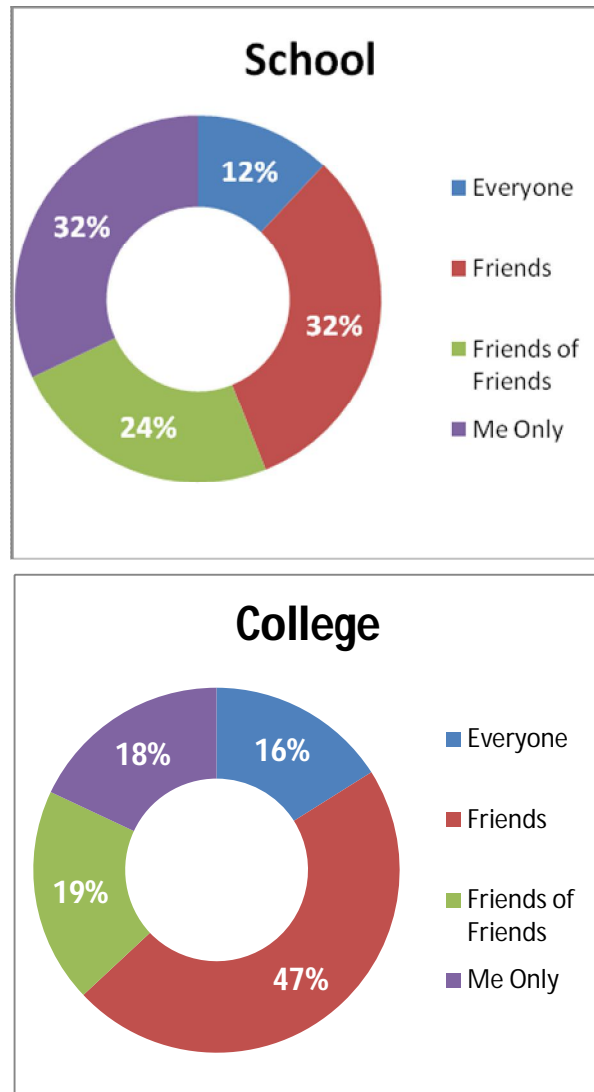
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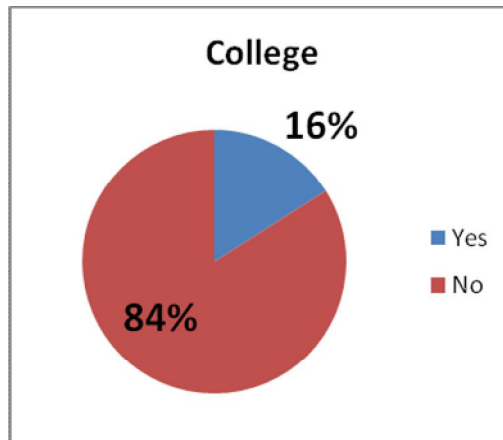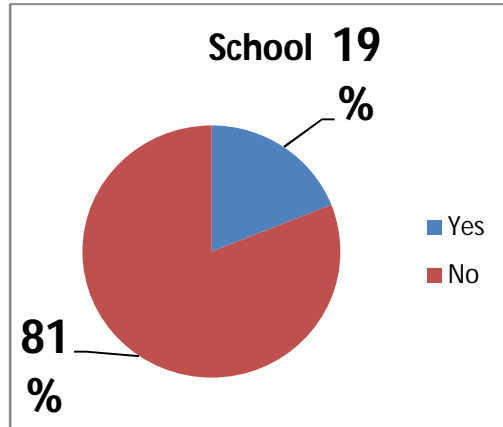
If yes then how many?

This question again throws up an interesting scenario. Greater number of school students say that they have more than one account (19% vs 16%). Similarly the figure of school students having more than 2 extra Facebook accounts is considerably higher than the corresponding figure for college students (20% vs 13%). Does this mean that school students are more adventurous and experiment prone as compared to college students?

The question not asked here is whether the extra accounts created by students are in their own identity or under a new or fake identity. This is an important question because if the students are creating new accounts in fake

identities then they are doing a crime and that is definitely unacceptable behavior.

11. What is the privacy setting of your Facebook profile?

School

12% Everyone
32% Friends
24% Friends of Friends
32% Me Only

College

16% Everyone
47% Friends
19% Friends of Friends
18% Me Only

Analyzing this result we find out that College students are more open and forthcoming regarding their Facebook activities and posts. This is evident from the fact that only 18% of college students keep their privacy setting as "me only" as against 32% school students. *As college students are more*

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open on Facebook it is necessary that they follow the basic security precautions while doing so.

On the other hand the largest chunk of students – both college (47%) and school (32%) – have their privacy setting as "Friends only". This in itself is a good thing provided that the list of friends of the students does not contain unknown entities. Because if it does then it is as good as having a privacy setting which says – Everyone! *This is due to the fact that an unknown entity can be anyone and maybe even an online predator posing as a normal person.* If he befriends the concerned student in the cyber space then all sorts of risks can be faced and are often faced by such targeted students. This should be avoided at all costs.

12. <u>Does your Fb profile reveal your personal details like address, phone number etc?</u>
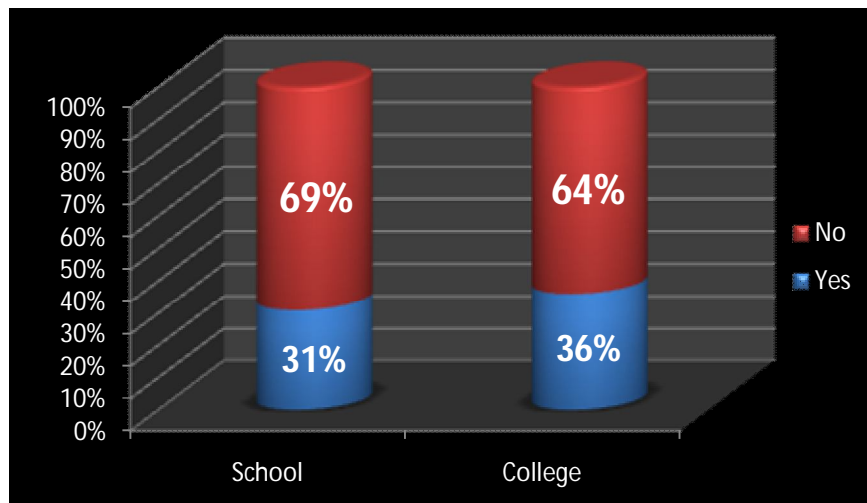
In this analysis too we find that college students are more reckless when it comes to secure and risk free behavior on the Facebook. 36% college students give out their personal details on their Facebook account as compared to 31% school students doing the same. Thus this behavior needs to be curbed and modified at the earliest.

13. <u>Do you post your personal photos on Facebook?</u>
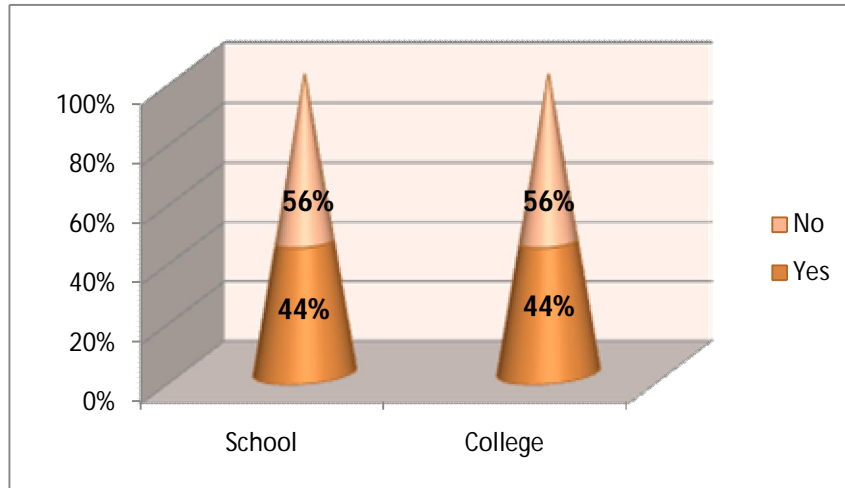
The answer to this query gives exactly same results for school and college students. But the striking feature of both these answers is that a large number of school and college students (**44%**) agree that they post their personal photographs on their Facebook account. This if done within limits can be considered a legitimate activity. But posting too many photographs and that too with a setting of "everyone" can cause certain complications. A number of such cases exist where the personal photos of students have been misused for a variety of purposes by certain criminal elements. This will eventually create complications for the individual concerned.

**14. <u>Can people see your actual photograph through your profile?</u>**
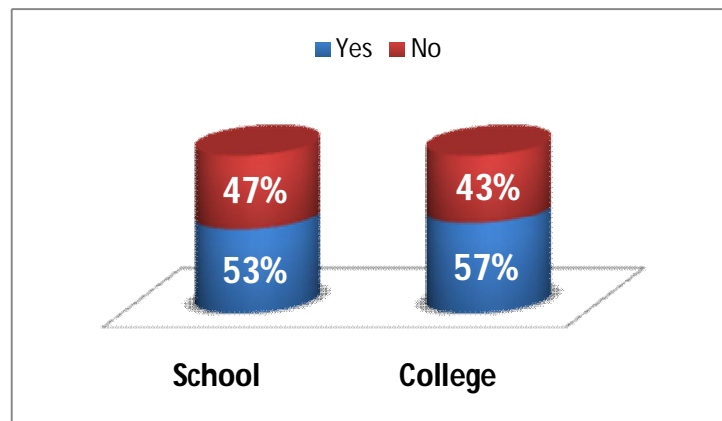
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Again the responses are almost similar for school and college students. Whereas in college students 57% say that their actual photographs can be seen through their profile, in school students this figure drops to 53%. The difference between the two categories is not very significant. We can thus once again safely say that college students are slightly more open and have a desire of greater social contact as compared to school students.

Whatever the case maybe but the important fact remains that a large proportion of school and college students put out their actual photographs on the social networking platforms. This in itself is a behavior which is fraught with dangers and challenges. Students will be best advised to strictly limit or eliminate the use of their actual photographs on social media.

15. **Have you ever posted, liked or shared obscene content on Facebook?**
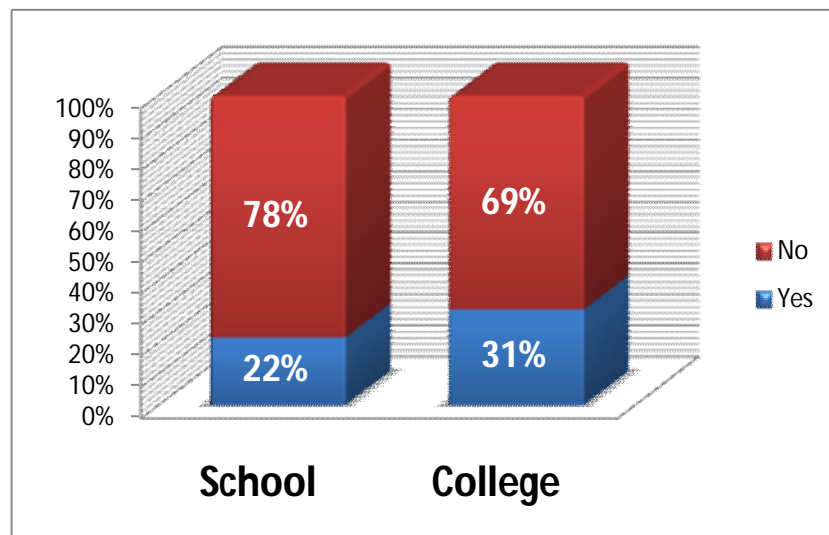
31% College students as against 22% school students admit to having posted, shared or liked obscene content on Facebook. This is a rather alarming scenario. Posting, sharing & liking obscene content in cyber space is an offence in our country under section 67 and 67A of the IT Act. If this content is concerned with children below the age of 18 years – then even viewing is an offence under section 67B of the same IT Act. So are our children in large numbers inadvertently committing offences while using social networking platforms like Facebook? This is a moot question, which needs quick answers and solutions.

16. **Do you post, like or share content against any politician, officer or celebrity on Facebook?**
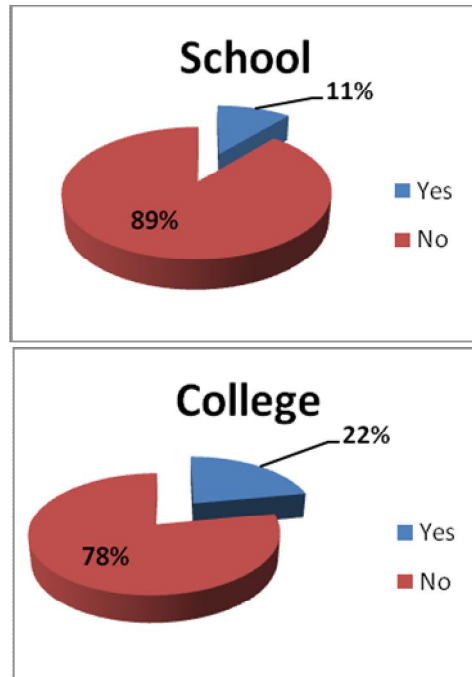
The number of college students who post, share or like content against important members of the society is double that of school students (22% vs 11%). This clearly shows the rebellious nature of the youth of the society in the present day and age. This attitude can bring about positive change but on the contrary this may also threaten the stability and sanity of the society – if stretched to absurd limits – which it is more often than not.

In addition posting, liking and sharing malicious content, without proof of its validity or truth – is defamation of the worst kind. If the concerned politician, officer or celebrity take it upon himself to set things straight – then the concerned youth can be hauled to court under the provisions of section 499 of the Indian Penal Code which deals with criminal defamation.

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17. <u>Do you disclose time and place while posting updates on Facebook?</u>
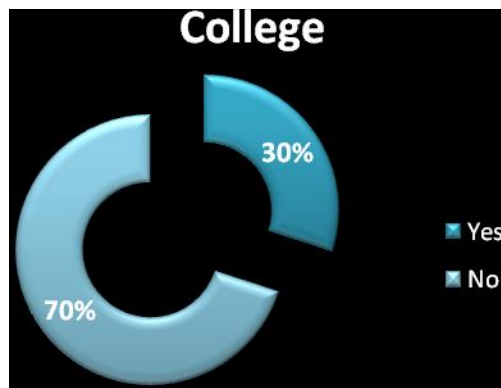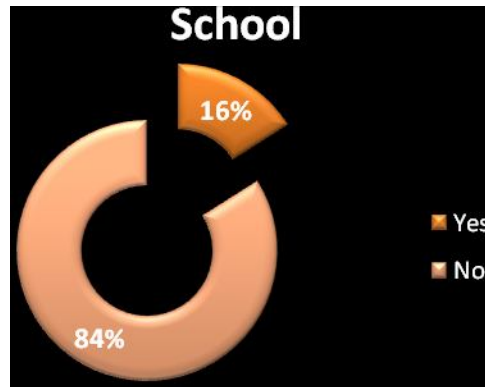
   College students once again exhibit their tendency towards greater reckless and risky behavior while using Facebook. This is evident from the fact that a high percentage of college students (30%) admit that they give time and place reference while posting status updates on Facebook. This figure is almost half (16%) in the case of school going children who were surveyed. *Time and place reference is good data for online predators and can put them in business if the individual continues this practice with impunity.*

18. Do you send friend request to unknown persons on Facebook?
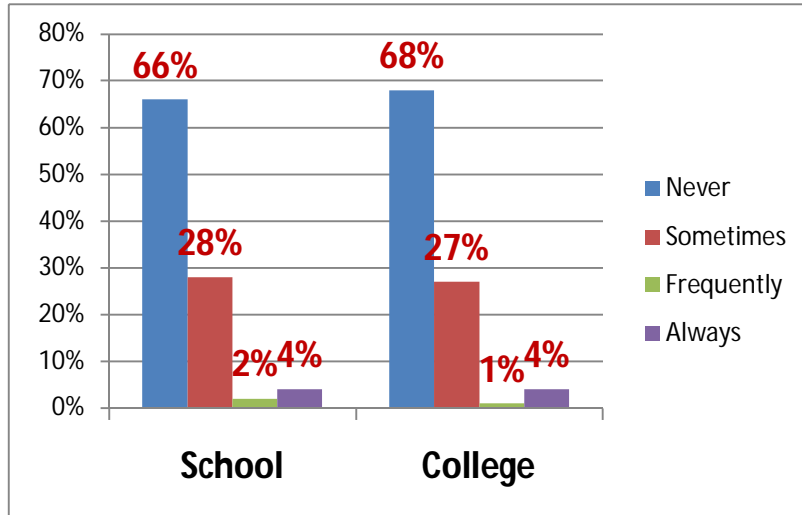
Mostly school (**66%**) and college (**68%**) students deny that they send friend request to unknown persons on Facebook. This in itself is a secure activity and is to be further encouraged. On the other hand in college students (**32%**) and school students (**34%**) still agree that they send friend requests to unknowns – albeit to varying degrees. This then is a point of worry as far as student security on the social media is concerned.

19. Do you accept friend requests from unknown persons on Facebook?
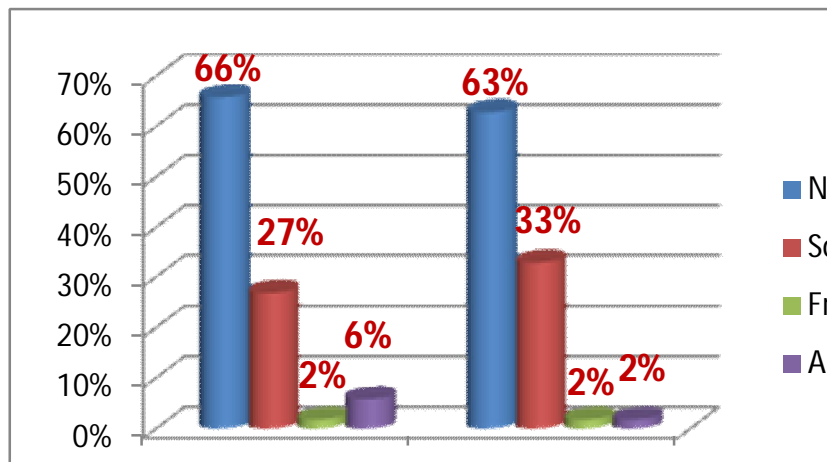
The responses to this query almost correspond to the responses obtained in the preceding question regarding sending of friend request to unknown

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persons on Facebook. While most students deny that they accept friend request from unknown persons on Facebook, a large majority still concedes to the fact that they do accept friend requests from unknown's. This number is 34% for school and 37% for college students. This is more than one third of the respondents in both categories. Not a very healthy situation.

20. **Have you ever formed a permanent relation with anyone on Facebook?**

If yes, was the person known to you from before in the real world?
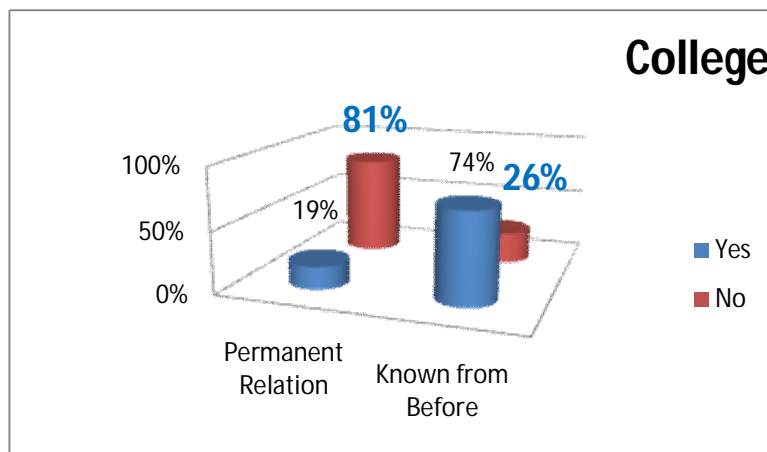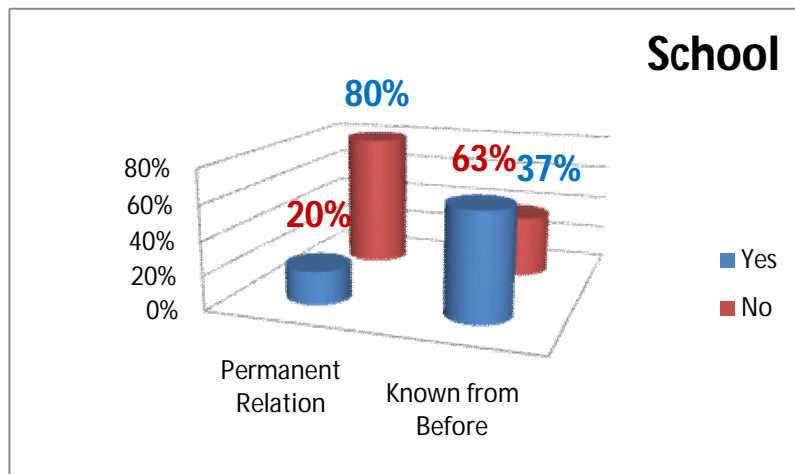
The analysis of this answer shows that college students exhibit a greater degree of caution as compared to school students while forming permanent relations on Facebook. Slightly lesser number of college students (**19%**) as compared to school students (**20%**) say that they have ever formed permanent relations on Facebook. However the safety feature comes into clearer focus when **74%** college students confirm that they knew the person from before with whom they formed a permanent relationship on Facebook. The corresponding figure for school students stands at **63%** only.

21. How many posts do you do in a day?
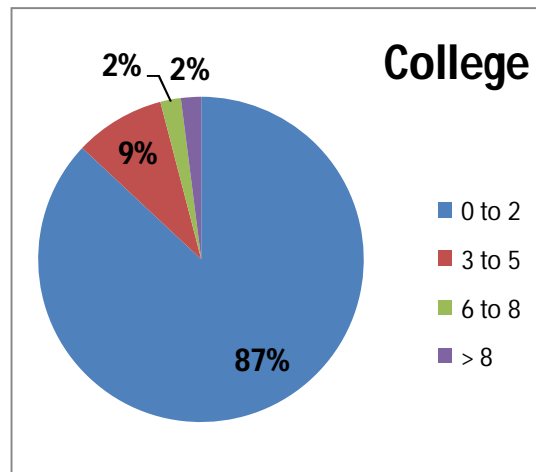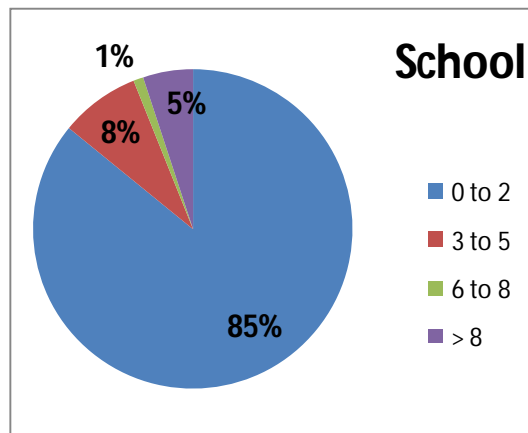
This question shows that the students of both schools (**85%**) and colleges (**87%**) do very few posts to Facebook daily. But the question remain –

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irrespective of the number of posts that students are putting up daily on Facebook – are they doing all activities in a safe and secure manner?

A very miniscule minority – for school students it being **15%** and for college students it being 13% - indulge in regular and repeated posting on Facebook. This shows that college students even exhibit greater reluctance in posting content on Facebook. This may be due to lack of time or due to greater dependence on other social messenger services like WhatsApp.

22. Before tagging a friend do you take his/her permission in advance?
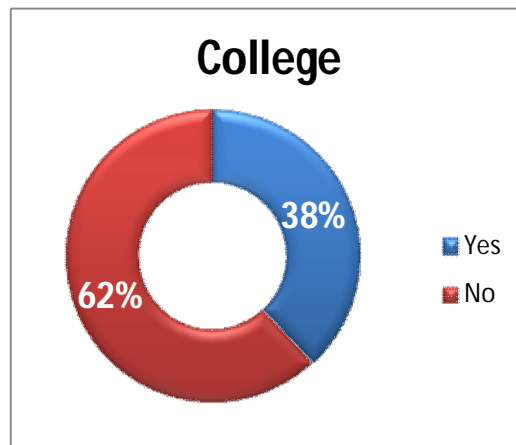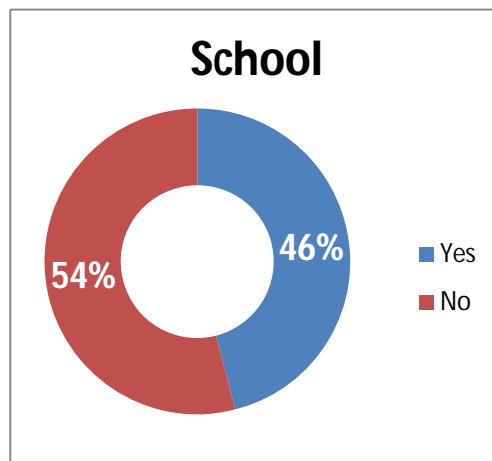
The answer to this query clearly demonstrates the cavalier attitude of the college students (**62%**) while tagging friends to their posts as compared to a more restrained attitude of the school students (**54%**).

MAJOR FINDINGS

The major outcomes of this painstaking research are as follows:

- Huge number of school (**44%**) and college (**58%**) students say that they have a friend list of at least 50-500 friends. This is an intriguing fact. So many virtual friends for an average students, proves that a majority of them will be unknown to the student. Means he will only be a "virtual" friend, not known in the real world. What can be more perilous than this to a youngster using the social networking space.

- Large number of school (**24%**) and college (**34%**) students use Facebook for more than 1 hour a day. This figure when translated to sheer numbers of students it will become huge and unimaginable, given the Indian population context. This huge number of students thus have to be made aware about the safety and security norms to be followed while using the Facebook network. Awareness is the bedrock of altered human behavior and performance. Keeping this in view, these huge numbers of students will have to be approached immediately and made aware about the security drill to be followed on Facebook. This is no easy task, seeing the huge shortfall in **cyber security guides** in this country.

- **57%** school students and **68%** college students admit to posting status updates on Facebook. The duration may vary – from several times a day to less than weekly. But they do indulge in this activity. That in itself requires that they be aware of the safety measures to be adopted and do go ahead and adopt these measures. Like a status update must never contain time and place reference. There are a slew of other precautions to be taken while posting status updates and they should be known to and implemented by the students.

- **61%** school and **57%** college students imply that their posts on Facebook are with a security setting – Public! This is indeed a huge number of students who are doing insecure behavior on the Facebook domain. They are exposing themselves to great harm and this can lead to the theft of their personal information which includes photographs. It can all result in such cyber crimes like – social engineering attacks; phishing attacks; morphing; ID theft and

loss of passwords; romance scams; relationship scams; Russian wife scam; opportunity scams etc.

- More school and college kids are not friend with their own parents on Facebook. This is an imminently precarious situation as it prevents proper monitoring of the children's activity by their parents. Hence parents too need guidance and counseling on how to go about parenting and mentoring their own wards in the cyber space. Otherwise they will be abdicating an important responsibility in this ever widening and expanding aspect of child and youth existence.

- Large percentage of school (**52%**) and college (**57%**) students say that they use their own photograph as their profile pic. This is definitely a risky proposition as this photograph can be misused for a variety of purposes. It can be used for morphing and thus causing damage to the reputation of the student concerned which may lead to all kinds of stress and strain. In many recorded cases it may even lead to suicide and other such extreme steps. This photograph can also be used to make fake ID cards, SIM cards, AADHAR cards and the like. They can then be misused to the detriment of the student concerned. Thus the security drill for putting profile pic's is that an animated character, a child's photograph or no photograph at all should be the profile pic of a student.

- **19%** school and **16%** college students admit to having more than one Facebook account. This is perplexing because more than one account can most probably be only for a wrong purpose. If this account is in a wrong or fictitious name then it adds to the suspicion. That is because if anyone makes a Facebook profile in a fake/fictitious name, one that is not his or her, it can be only for a purpose which may not be that noble. It is also a breach of contract that the maker of the account signs with Facebook – that is to provide correct information. In addition it is also impersonation if it is made in a fake name. Thus such habits for making more than one profile have to be discouraged amongst students.

- Though the largest chunk of school (**32%**) and college (**47%**) students say that their privacy setting for their Facebook profile is

"Friend only" – the danger is of making Friends of those they do not know in the Real world. If you make an unknown stranger a "Friend" just based on a Friend request – then it is as good as having a privacy setting of "everyone". Giving access to everyone to one's Facebook profile is indeed a dangerous proposition because it opens up the user to all kinds of social engineering attacks as well as the nefarious designs of online predators.

- **31%** school and **36%** college students admit to another big security flaw – that is giving out one's telephone number, address etc on their Facebook profiles. All these are personal details and should be shared to the smallest degree on Facebook and other virtual platforms. This is again due to the social engineering and online predatory attacks that such personal information can generate on the concerned user. Another major finding was that **44%** college as well as school students share their personal photos on Facebook. This can again put the student to great harm – as photos can be morphed; Photo Shopped and misused for all the wrong reasons and with disastrous consequences. In addition a selfie from a mobile device which is GPS enabled will carry the latitude and longitude of the place where the selfie was clicked due to the feature of geo-tagging. If this photo is uploaded on to the internet it can be used to stalk the person posting it, as his/her location can be easily obtained by downloading the photo and right clicking on the properties and obtaining the latitude and longitude and hence the exact location via Google maps.

- Another big security lapse is that **22%** school and **31%** college students admit that they have posted, liked or shared obscene content on Facebook. This is alarming as all the above activities are offences under section 67, 67A & 67B of the Information Technology Act, 2008. Posting, liking and sharing content against any politician, officer and celebrity is also done by 11% school and **22%** college students. This is another activity which has the potential to land the student in a soup as they can be hauled in front of the law under various sections of the Indian Penal Code, the chief being the lay against criminal defamation which is section 499. Thus

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students will be best advised to avoid such controversial activities too.

- Another security flaw found was that 16% school and almost double the number that is 30% college students admit that they routinely mention time and place in their Facebook updates. This is also a highly risky proposition due to the omnipresence of online predators – who latch onto such details and can use it to kidnap, abduct and confine students for financial gain or to commit sexual crimes.

- **34%** school and **37%** college students say that they accept Friend requests from total strangers on Facebook. What can be more harmful and dangerous than this. More than one third students indulge in this highly risky behavior. This may be out of temptation, curiosity or plain competition. Whatever may be the reason, it is an activity which is totally avoidable and if continued with impunity, may lead to severe complications and troubles for the concerned individual.

- Tagging without permission can also spell legal trouble for a student. And students do it with impunity – in schools 54% and in colleges 62% students tag their friends without permission. What if the tagged person does not like the post or photo in which he/she is tagged? It can and does lead to complaints and even legal action against the tagger.

Thus it is clear that High School and College students in India have still a long way to go as far as awareness regarding safe and secure behavior is concerned on Facebook and other such similar social networking platforms. How will this awareness come? Who will be the source of this awareness drive? What will be the timeframe in which this drive will be launched and ensured? Who will be responsible for analyzing the results? Who will formulate reworked strategies based on the Feedback of the implemented initiatives?

There are so many nagging questions but answers are few and difficult to achieve. But the bottom line is that things have to be done in the direction of safe social networking existence for students and it has to be done fast – because it is already very late and time is running out fast!

I end this report with the findings of the study regarding a couple of questions put to the students regarding – "what is the best thing that happened to you on Facebook" and "what is the worst thing that happened to you on Facebook". Very few surveyed students responded – but response rate for good vs. bad was 1:3. From this we can safely assume the risks that even the students foresee on using social networking platforms. What they need is proper guidance and support (aka awareness) to make them safer and more secure.

Some gems of "best thing that happened" –

- ✓ Got connected with old friends
- ✓ Know news
- ✓ Reading blogs about cooking and psychology
- ✓ Updated about the world and happenings
- ✓ Information about exams and general awareness

Some gems of "the worst thing that happened" –

- Addicted to Facebook use
- Waste of time and mental disturbance
- Spending time on useless stuff when one has other important things to do
- Fake ID use by boys and vulgar talk
- Wrong friends/videos/photos
- Misuse of private information
- Hacking of Facebook ID's
- Sharing adult content
- Connected with external people but distance from own family
- Failed in exam
- Decreased interest in studies

Seeing the above the choice is clear. In which direction awareness in use of Facebook and social networking use should proceed – in safe, secure and sensible use.

Currency at a Cryptic Crossroads: Decrypted

R.K. KARTHIKEYAN, IPS*

Paper money or printed money is in use since 660 BCE.It is believed that Chinese are the pioneers in using printed money. Earlier, gold, silver, bronze and other metals and even salt were exchanged to buy and sell products. Barter system has practical difficulties and therefore some common medium of exchange is required to buy and sell all other products. Gold is still considered to be one such medium of exchange. Rarity, easy extractability, malleability, ductility and transportability are some of the important considered while choosing a common medium of exchange. Some States chose gold, some silver and some bronze and so on.

Adam Smith's statement that governments didn't invent currency is still debated in research communities dealing with economics. Either government or whoever was the inventor of currency or whoever that found a replacement for the barter system wanted authenticity to the issue of currency. Therefore one needs a currency which can be issued only by an individual, group or government to ensure its authenticity. The bottom line is that people worked hard and are still working hard and struggling to prevent fake currencies. Fake currencies lead to inflation and can even result disruption of the entire economies.

Metal currency had some drawbacks as they are not easily transportable; the possibility of people getting robbed was a serious concern. This gave birth to paper or printed currency. Emperor Chen Tsung (998-1022 AD) awarded rights to issue universal bills of exchange to 16 merchants during

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Superintendent of Police, Dindori, Madhya Pradesh.

his reign. When, however, several of these merchants failed to redeem the notes on presentation, the credibility of the money was undermined and the public refused to accept it. In 1023, the Emperor rescinded the merchants' issue rights and established a Bureau of Exchange within the government charged with issuing circulating paper notes. What this bureau issued are now considered the first true government-issued banknotes.

Figure 1: First printed currency in China

Printing plates made of brass from this period have been unearthed by archaeologists and have been used to print recreated examples of these early banknotes. No original-issue notes of this series are known to have

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survived. The oldest existing original banknote found to date was a fragment discovered in a cave. This banknote was issued by the Chinese Emperor Hiao Tsung sometime between 1165 and 1174. On its face, this surviving, rather sophisticated example depicted the amount or number of coins it represented, and it is clear that these descended from earlier issues, none of which have survived.

The first true banknotes from Europe were issued in Sweden in 1661. Much debate accompanied the issue, with some officials and merchants predicting paper money would herald the downfall of the country's monetary system. To overcome such objections, the monetary authorities issued the banknotes with no fewer than 16 certifying endorsements from prominent and trustworthy officials - all signed individually by hand! Backed by the government's guarantee to redeem the banknotes in specie, they were an immediate success, replacing the necessity to carry large, heavy, easily stolen quantities of gold or silver.

Within months, other European governments and merchants, observing the convenience, safety, and the boost to Sweden's experiment gave to its commerce and economy, issued paper money of their own. Unfortunately, not all issuers were as meticulous as Sweden when it came to backing their currency with specie. Realizing not all the banknotes circulated would be redeemed, governments began issuing banknotes exceeding the value of the gold and silver in their treasuries. Further, whenever more money was needed, princes, banks and other issuers of money found it easy to print up another batch. Most of the early printed money soon got devalued, sometimes to the point of becoming worthless. (A lesson some of the current regimes are yet to learn.)

The concept of paper money being new, most countries of the time lacked laws governing who could print money. Counterfeiting laws making it illegal to copy existing coins were updated to cover paper money, but few countries had prohibitions against anyone issuing their own currency. Soon states, principalities, cities, banks, guilds, institutions, and even private individuals - just about anyone with access to a printing press – started churning out banknotes. Indeed, the only hindrance to such issues was the public's readiness to accept any given banknote.
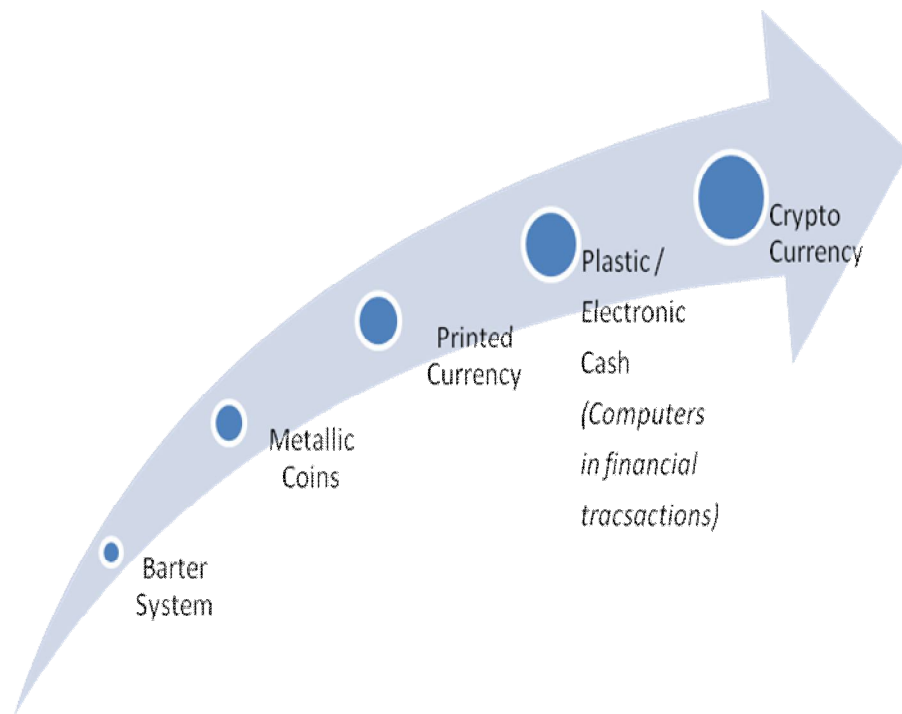
Under such circumstances, the face value of many banknotes became almost meaningless. A banknote's value was determined by the reputation of the issuer and the amount of specie backing it. Some notes were not accepted at all, rendering them worthless. Others were accepted only at a discount from face value - which at times could be ten percent or lower. A rare few banknotes actually circulated at more than face value, especially if the issuers specified they would honour the banknote's exchange for specific amounts of gold or silver - metals which themselves often fluctuated in value.

In the present situation, crypto currencies can be compared with by the then printed paper currencies. People investing in crypto currency and the remaining silent spectators have the same doubts and suspicion as the people in 1600s using printed paper currencies. The rest of the article is going to be technical as the 20th century witnessed invent of the internet and related technologies. Let's have a brief discussion on computers and internet.

The Antikythera mechanical device is the oldest (80 BC) known analog computer till date. Tally Stick was another ancient (23 AD) memory aid

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device used to record and document numbers, quantities, or even messages. Tally sticks have been used for numerous purposes such as messaging and scheduling, and especially in financial and legal transactions. A simple version of Antikythera mechanism is used in modern day watches. The present day hard disk drives (HDD), online third party transaction, some cryptographic techniques, etc. are implemented by a mechanism similar to the Tally Stick.

Computer is a collective term of input device, processing device and output device. Input devices such as keyboard, mouse, etc. converts human readable/understandable language/actions in to binary (0s and 1s). The processing device does the necessary job and send the result to output device in binary. The output device converts binary into human readable/ understandable action or language.

Signals were used for distant communication. Smoke signals were used by ships to communicate with other ships or land ports in emergency situations. Soldiers at borders standing on watch towers communicate with each other using torch lights by switching it on and off. In computer world 'on' is 1 and 'off' is 0. Two or more computers can communicate with each other similar to the soldiers at the borders did and in network terms it is called as fibre optic communication. A connected group of computers constitutes a network. Internet is the largest connected group of computing devices.

In business administration and governance we have terms like centralization, decentralization, outsourcing, etc. These terms are applicable in cyber world too and it is related to storage of data. The first phase of computer networking data is stored in the server computers and the client computers can access it on demand (centralized system). The second phase of computer networking have the data gets stored on client computers as well (decentralized or distributed environment). The third phase is called cloud computing which may be equated to outsourcing in business terms. A private company may outsource its conveyance requirements to a travel agency to cut down vehicle purchase and maintenance costs. Similarly in cloud computing a company can outsource its computer hardware and software requirements to another agency to cut down cost. Cloud computing service providers have a network of computers which can fulfil the hardware and software requirements of the client company. The bottom line is – let the experts do their best!

Now, back to the topic. Let's understand how the history of growth of computers and technology influenced the currency system in the world. The search for one good currency will never end until a stable, secure, easy-to-carry and largely accepted currency is found. Gold coins were not easy to carry in large amounts. The printed bank notes backed by gold or silver were not stable as the prices of gold and silver fluctuated themselves. Possibility of fake currencies on the one hand and governments printing more currency notes than their own gold or silver deposits would permit on the other led to severe economic crisis in the world. Credit cards, internet banking, etc. made money to be carried easily and available anytime. Either bank or government played an important role in money transaction. For example, only governments are legally permitted to mint money but there can be bad governments who can create global economic crisis. Financial institutions like banks are responsible for authentication, authorization and accounting of every money transaction but there can be bad banks who can misuse their power (e.g. Lehman Brothers). Why to blame only the governments and banks, there can be bad citizens in the world who can print fake currency notes and repudiate fake money transactions. There are so many cases of forgery and cheating.

Digitization of financial transaction (credit/debit cards, demat accounts, internet banking, etc) can reduce fake printing of currency notes. Even in digital world, the authentication, authorization and accounting are done by banks, payment gateways, etc. In a digital transaction if A sends money to B by internet banking the bank computer will create an encrypted digital cheque bearing the issuer account number, receiver account number and amount to be transferred. If A and B has accounts in the same bank the transaction can be verified by the bank itself. The encrypted digital cheque is created at A's computer and sent to Bank's server where it will be executed and B's account is credited. A bad computer hacker can interrupt this transaction and can modify the encrypted digital check in his favour or may take full control of A's computer (Session Hijacking).

Our money is not safe even in the digital world. Fake currencies, forged documents, robbery etc are problems in the real world. Digital transactions can address the real world problems only to some extent. Digital transactions have its base on strong encryption techniques. The study of encryption and decryption of data is called cryptography.

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Dear Juliet

1. "The great love that I have for you
2. is gone, and I find my dislike for you
3. grows every day. When I see you,
4. I do not even like your face;
5. the one thing that I want to do is to
6. look at other girls. I never wanted to
7. marry you. Our last conversation
8. was very boring and has not
9. made me look forward to seeing you again.
10. You think only of yourself.
11. If we were married, I know that I would find
12. life very difficult, and I would have no
13. pleasure in living with you. I have a heart
14. to give, but it is not something that
15. I want to give to you. No one is more
16. foolish and selfish than you, and you are not
17. able to care for me and help me.
18. I sincerely want you to understand that
19. I speak the truth. You will do me a favor
20. if you think this is the end. Do not try
21. to answer this. Your letters are full of
22. things that do not interest me. You have no
23. true love for me. Good-bye! Believe me,
24. I do not care for you. Please do not think that
25. I am still your boyfriend."


~
Romeo

(Read only odd number lines)
```

Figure 2: A simple example of cryptography

An encrypted data becomes usable only after decrypting with a KEY at receiver's side. If the KEY used by the sender (for encryption) and receiver (for decryption) are same it is termed as symmetric key cryptography and if the KEYs are different it is termed as public key cryptography. In real world symmetric key can be compared to normal locks where only the same key is used for locking and unlocking it. Public key can be compared to press locks where anyone can lock it but can be opened only by the one who has the key.

In symmetric key, if A has to send a secret parcel in a box to B, A has to have both the lock and key. A will send the locked box and key separately. On receipt, B will unlock the box with the key to open the secret parcel. In public key, B possess the key and will not give to anyone. A will lock the box with the press lock (no key is required) and sends to B. After locking it even the sender A will not be able to open it. Only B can open the box using his private key.
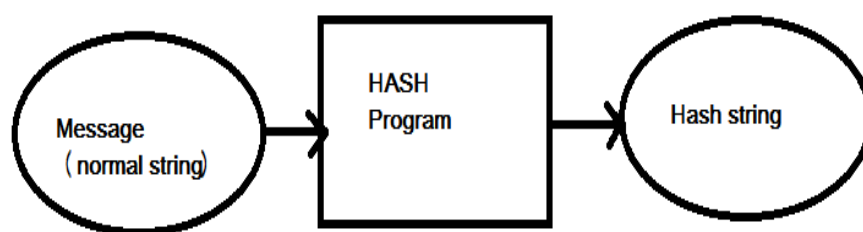
A thief tries to steal the box during the above mentioned transportation. A thief might have many number of keys and tries one by one to open the box and he may succeed in his attempt. Both symmetric and public key are vulnerable to this type of attack. It is called 'iterative guess work'. Symmetric key cryptography is even more vulnerable because the encrypted data and key travels in the same network though sent separately (like ATM card and PIN sent separately by banks to its customers). The thief may get access to the original key to open the secret box. Therefore public cryptography is better than symmetric key cryptography. In digital world the term key is a string of characters. Public key cryptography is still vulnerable to 'iterative guess work'. Super computers can perform guess work fast and generate various permutation and combination of character strings to break the encryption. Cryptography techniques gets obsolete with technological advancements in processing power of the computers.

SHA-1 Hash program examples

Message

Hash String

I love India

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89a1aea6a03b0351998165c2dd4db5327eceda5a

I love INDIA

2d04c5cdf07f5f2b2a7871071dc4866868849230

Tamil Nadu

6111b3c1fec45aefe8f321d50c4ca378984880f0

Public key cryptography gave raise to cryptographic hash functions like digital signatures, message authentication codes, etc. Cryptographic hash functions like SHA-1, SHA-256, etc converts a message (which may be a text string, word/pdf documents, exe files, etc.) into a fixed length string known as the hash string. One of the uses of hash programs is to verify the data integrity. In the example given above, a slight change in message, capital letters, comma, full-stop, etc. will change the entire hash string. An ideal hash function will not generate same hash strings for two different messages/files that easily. Unlike encryption, hash functions are one way, the original data cannot be retrieved from the hash string. It is like an attempt to provide a unique identifier for all the combinations of characters of various lengths present in the world.
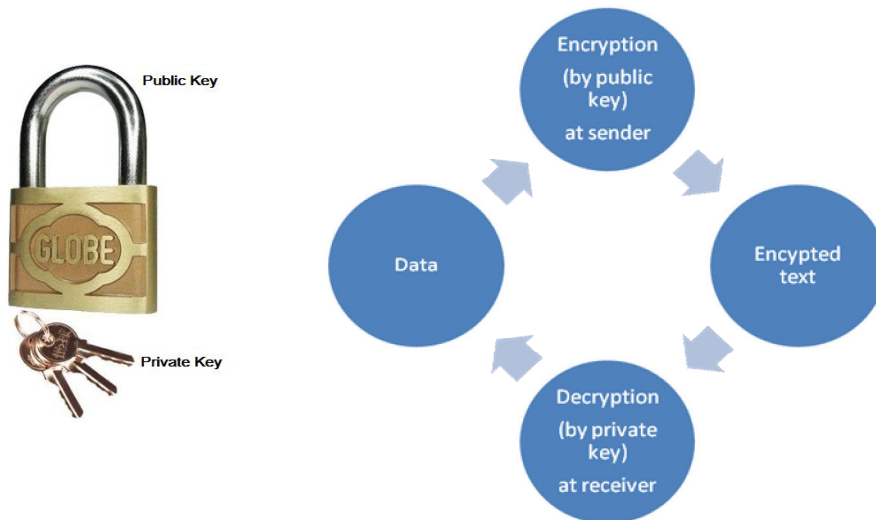
Blockchain systems use cryptographic hash functions. Bitcoin is an implementation of blockchain system. The following are some terms to understand before proceeding:

- Peer-to-peer
- Proof-of-work
- Hashcash
- Byzantine fault tolerance
- Double spending
- Network consensus or confirmations

In simple terms:

Peer-to-peer

In contrast to client-server model of computing, the peer-to-peer network has no server. All computers in the network will act as a server or client. A software runs in every computer which will communicate with every other computers in the network. In real world it is like a leader-free village and all decisions are taken by taking opinion from every house in the village.

Proof-of-work

In India to get a Commercial Pilot License (CPL) one needs to have minimum 200 hours of flying. It costs minimum Rs. 9000 per hour of flying. For anyone who is holding a CPL, we can easily say that the one has completed minimum 200 hours of flying. CPL is a certificate to prove his proof-of-work that the one has spent time and energy to get the certificate. Why do we need proof-of-work in computer world?

Hashcash

Hashcash is a proof-of-work concept in computer world. During the introduction of mobile phones sending SMS to other mobile phones was free. Those days were we used to get spammed by unnecessary messages, advertisements and promotions. When sending SMS started costing everyone the spamming got reduced. Similarly in email communication where it is still free for sending emails we get spammed by unnecessary emails. Hashcash is a proof-of-work system to reduce the spamming. For email uses, a textual encoding of a hashcash stamp is added to the header of

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an email to prove the sender has expended a modest amount of CPU time calculating the stamp prior to sending the email. In other words, as the sender has taken a certain amount of time (220 iterations) to generate the stamp and send the email, it is unlikely that they are a spammer. The receiver can, at negligible computational cost, verify that the stamp is valid. The hypothesis is that spammers, whose business model relies on their ability to send large numbers of emails with very little cost per message, will cease to be profitable if there is even a small cost for each spam they send. Receivers can verify whether a sender made such an investment and use the results to help filter email.

Byzantine fault tolerance

In computer world even simple concepts are worded too technical for a common man to understand. Byzantine fault occurs in scenarios where a consensus is required between the participating parties. For example in a group of five individuals A, B, C, D and E who are placed at distant locations planning for a get-together at a picnic spot. The spot will be decided on consensus of the group. A and B agreed to go to Himalayas whereas C and D agreed to go to Kanyakumari. Now E's decision is more important as it will decide the spot to agree upon consensus. E accepted for Himalayas to A & B and Kanyakumari to C & D. A and B went to Himalayas, C and D went to Kanyakumari and E stayed at home making the whole picnic plan a failure. This is called Byzantine fault. The concept is to explain trust-less-ness of the individuals. E's character may be either not credible or miscommunication led to the failure. The cost of failure is severe in banking transaction systems where minimum three parties are involved in every transaction – sender, receiver and trust server (payment gateway). Are the present trust servers are that trustful?

Double spending

The concept is similar to fake currency notes in real world. In banking transactions sender sends money to receiver mediated by a trust server. To make the communication secure the trust server encrypts all data exchanged between the sender, receiver and itself. For example if A wants to send Rs. 1000 to B. A's bank communicates its willingness to trust server. The trust server verifies A's credentials and generates an encrypted digital certificate which can be used only one time and sends it to B's bank. B's bank

decrypts the certificate and credits money in B's account and send acknowledgement to the trust server. Total five entities are involved in the transaction A, A' bank, trust server (payment gateway), B's bank and B. A and B are human entities and the rest are computer systems. The byzantine fault can occur in this scenario too. The encrypted digital certificate can be forged or may be used more than one time. This problem is called double spending. Forging of encrypted digital certificate is similar to printing of fake currency notes.

Network consensus or confirmations.

Consensus is more important in network systems. A sends money to B via the trust server. B should acknowledge the receipt to A via the trust server and that make the transaction complete. A receives an SMS of debit and B receives an SMS of credit in their respective mobile phones. Byzantine fault or double spending may occur if any of the participating entity dysfunctions. The failure may be intentional or situational or technical. Trust server which is in the middle of the transaction is responsible for prevention of double spending. It is a centralized system of preventing of double spending but it is not impervious to byzantine fault problem.

What is bitcoin?

Bitcoin is an implementation of blockchain system. Blockchain is a decentralized system which is secure-by-design to handle double spending and byzantine fault problems. Block chain is secure by design as it uses distributed ledger, proof-of-work concept, strong cryptographic algorithms and consensus algorithms on a peer-to-peer network.

In olden days if there is an electricity power cut in a colony our mothers verify it with each other in the colony to ensure whether the electricity is down in every house in the colony. If not the fault is identified and the affected house or street goes for repair. The communication between houses to arrive at a decision is called consensus algorithm.

Distributed ledger – consider a scenario where everyone in the world has the bank passbook of all the people in the world. All the banking transaction of everyone in the world are updated in the respective passbook by everyone. The entry into the passbook happens by the consensus algorithm as mentioned above. In real world it is impractical but in the computer world, in a peer-to-peer network, it is possible.

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In blockchain network, the ledger is possessed by every computer (nodes). Transaction between the computers are recorded into the ledger in all the computers (nodes). It means every computer in the network has all the history of transactions happened in the network.

For example, let's say there are five computers in the network A, B, C, D and E. A sends Rs. 100 to B and C sends Rs. 499 to D. The ledgers of the five computer will be as shown below:

LEDGER

A's computer

B's computer

C's computer

D's computer

E's computer

Tx 1

A => B

Rs. 100/-

A => B

Rs. 100/-

A => B

Rs. 100/-

A => B

Rs. 100/-

A => B

Rs. 100/-

Tx 2

C => D

Rs. 499/-

C => D

Rs. 499/-

C => D

Rs. 499/-

C => D

Rs. 499/-

C => D

Rs. 499/-

Hash string generation is one of the main process in block chain. All transactions in block chain are hashed to ensure data integrity. Every user in the bitcoin network has a private key - public key pair.

The private key is kept as a secret and the public key is hashed. The hashed public key is given to all. This technique prevents attempts to generate private key by a given public key.

Example: (the private key, public key and hashed public key are kept simple and recognizable just for illustration purpose only. In practical, these keys are very complex and it is very difficult to find the other pair of a given key)

Computer User

Private Key

Public key

Hashed Public Key

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A

A123PRI

A321PUB

HAH3H2H1HPUBH

B

B456PRI

B456PUB

HBH4H5H6HPUBH

C

C789PRI

C789PUB

HCH7H8H9HPUBH

D

D012PRI

D012PUB

HDH0H1H2HPUBH

E

E345PRI

E345PUB

HEH3H4H5HPUBH

If B wants to send 5 BTC to A, the following message is broadcasted to all (A, B, C, D and E)

To: HAH3H2H1HPUBH   *=> (hashed public key of A)*

Amount: 5 BTC   *=> (Amount sent)*

Label: To buy flowers and chocolates   *=> (optional label to hold reason)*

The above message will be encrypted using private key of B and broadcasted to all along with B's public key. Since it is a broadcast message by B, the remaining all (A, C, D and E) try to match the hashed public key with their own. Only A will succeed in the match and can prove it to all present in the network. Technically, every transaction will have the following fields:

Scenario: B sends 5 BTC to A

A simple P2PKH transaction (Assume that the 5 BTC which B holds was received from C in a previous transaction)

- Transaction id

- Output index number

- Public key of B

- Signature (by B)

- Script (of previous transaction) encrypted
  - by B's private key

- Transaction id (of previous transaction)

- Output index number (of previous transaction)

- Hashed public key of B and amount sent by C (5 BTC)

- To: Hashed public key of A

- Amount: 5 BTC (500000000 satoshis)

- Label: To buy flowers and chocolates

The signature can be decrypted by B's public key. Successful decryption proves that B owns 5 BTC obtained from C in previous transaction. Now that 5 BTC is transferred to A's bitcoin address (hashed public key of A). All the transactions are hashed to check data integrity. The transaction gets recorded in the block chain.

In real world we spend coins and currencies. It moves from one's wallet to another one's wallet. In bitcoin system the coins move from transaction

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to transaction. It is like issuing cheques. If C gives B a cheque of 5 BTC then B can redeem it by issuing another cheque. Interestingly in bitcoin transactions if B has only 5 BTC and needs to send 2 BTC to A, the system creates two cheques, one to A sending 2 BTC and another to B (self) sending 3 BTC. The former is standard transaction and the later one is called 'change'.

The above example is simple: C gives 5 BTC to B and B gives the 5 BTC to A. Transactions can be more complex and multiple. If E gives 7 BTC to B and D gives 3 BTC to B resulting in 10 BTC as spendable balance for B. In such a case if B wishes to give 9 BTC to A which results in two cheque creation one for 9 BTC to A and the other for 1 BTC to B (self) – 'change'.
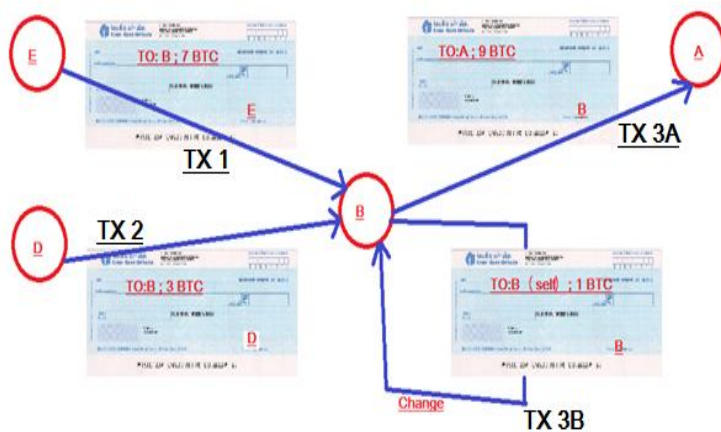
In real world, cheques are backed by hot cash. In bitcoin system if A has got BTC from B and if B has got BTC from C then from where C has got BTC? C mined bitcoins from the system. Participating computers or nodes in the bitcoin block chain system verifies each transaction and add it in the blocks. Every block contains around 2020 transactions. For every 10 minutes one block is created. The block contains a puzzle similar to hashcash proof-of-work scheme (bitcoin uses SHA256 hashcash scheme making it more difficult than the hashcash scheme explained previously in the article). The node solving the puzzle and adding the block in the chain will be rewarded with BTCs. The process is called mining. Mining is a very difficult process and requires a lot of computational power and time. Miners are also known as full client nodes in the bitcoin network. Full client nodes have complete block chain ledger containing all the transactions since bitcoin's inception. At present bitcoin's ledger size crossed 20GB (Feb 2018) and expected to grow around 52GB per year. Application Specific Integrated Circuits (ASIC) are used by miners to calculate hash and solve cryptographic puzzles in block chain. On an average ASIC uses 1.375 kW/h of electricity to operate. It costs Rs. 7.44 per kWH of electricity thereby requiring Rs. 1215138 to solve a block. The current bitcoin reward for solving a block is 12.5 BTC which amounts to Rs. 97211 per bitcoin in terms of electricity consumption. The bitcoin reward will half for every 210000 blocks making it even more costly in future. The cost factor behind Bitcoin is energy, and spending more energy on mining makes a Bitcoin more expensive and less profitable. However, a

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more energy-expensive Bitcoin is a more sound/secure Bitcoin from the cryptographic perspective.

Bitcoin forensics

To prove a transaction:

1. Seize the digital ledger

2. Lookup the block in the chain

3. Find Tx ID in the merkle tree. Printout the P2PKH script.

4. 65B cert preferably from the crypto currency exchange or sites like blockchain.info or any full node client

5. Note public keys of both parties (need panch nama witnesses). Secondary evidence.

6. Complainant should provide the paired private key of the public key.

7. Accused should provide the paired private key of the public key (tricky part as it is like a confession and has to be made before magistrate)

8. Note: KYC is not followed by all crypto currency exchanges as it not mandatory (eg. Unocoin). So we might need to get IP logs to prove ownership. Circumstantial evidence.

9. Computers, mobiles, etc. may be seized to prove the crypto wallet belongs to the accused. Direct evidence.

Only 21 million bitcoins can be mined in the present system (because of the nature of halving of bitcoin reward for every 210000 blocks). In future the transaction charges may get dearer once the reward mining stops. Bitcoins are criticized for high carbon footprints. Bitcoins are not governed by any nation or business entity. Bitcoin boasts for its openness, anonymity and integrity. The openness diminishes as the blockchain grows and difficult in solving hashcash increases, because in such case only people with super computers can act as full client nodes which may fall into the clutches of powerful nations and business people. Every normal user may not want to download the full block chain ledger, instead the user may approach some wallet providers to generate public/private key pairs and store spendable balance. This feature will breaks the anonymity of the user if all the wallet providers starts linking the public/private key pairs with UIDAI's Aadhaar in near future. The block chain network can be attacked if 51% of the network users cooperate for such an attack. In that case, as the mining is getting difficult day by day, people are moving to cloud-mining

where matrix of distributed servers are involved which are controlled by internet corporate giants.

Satoshi Nakamoto created bitcoin, the first block chain crypto currency system in the world. The identity of Satoshi Nakamoto is still not known. It may be an individual or group of computer experts. The bitcoin code and design is too well structured to be written by an individual. Governments and common people have mixed views about bitcoin. This is similar to the situation which prevailed in 1661 when bank notes were issued (world's first printed currency backed by governments); people were suspicious but later everyone started the use of printed currency notes. To prevent double-spending (fake currencies/forged documents) and byzantine failures (cheating) people have created bitcoin.

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Implications of Federalism on National Security and Counter -Terrorism

ARSHITA AGGARWAL*

National Security refers to safety and security of life and property of the citizens and public property[1]. It is freedom from threats that endanger our core values without repair[2]. Based on the origin of the threat, national security is divided into internal security and external security. Internal security is protecting the country within its border and involves maintaining peace and law and order and protecting the sovereignty of the country from threats within the country. It is primarily the responsibility of the State police which is supported by armed forces, if the situation warrants. External security, on the other hand, involves protecting the country from foreign entities. It is the sole responsibility of the armed forces of the country[3]. Kautiliya in Arthashastra specified four types of threats: internal, external, internally aided and externally aided[4]. Major threats to national security in India are naxalism, insurgency and terrorism. In recent times terrorism has emerged as a major threat to national security.

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[1] *8th Report of the Second Administrative Reforms Commission, Combating Terrorism, 30 (2008).*

[2] *NCERT Contemporary World Politics Science For Class 12, 100 (4th edn., 2008)*

[3] *Ashok Kumar, Challenges To Internal Security of India, 1 (2015)*

[4] *V.P. Malik, Internal Security Management: Challenges and Policy Options. (April 17, 2010) available at:http://www.clawsin/images/publication_pdf/IB_17%20%2024 [1].05.10.pdf (last visited on May 11,2016).*

Implications of Federalism on National Security and Counter -Terrorism

Terrorism is now a global phenomenon but numerous attempts to come up with a universally accepted definition for terrorism have failed.[5] Carlos Marighella considered as a godfather of urban terrorism defined terrorism as "an action that the urban guerilla must execute with the greatest of cold bloodedness, calmness and decisions". The attacks are ruthless in nature and calculated in their impact on society at large.[6] The FBI defines terrorism as "the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political and social objectives". It is a weapon used by the weak against the strong.[7]

Alex Peter Schmid, an authority of terrorism related issues and an officer of the United Nations in his widely accepted definition of terrorism defined it as: "Terrorism is an anxiety-inspiring method of repeated violent action, employed by (semi) clandestine individual, group or state actors, for idiosyncratic, criminal or political reasons, whereby-in contrast to assassination-the direct target violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators. Threat-and violence-based communication processes between terrorist (organization), (imperilled), victims and main targets are used to manipulate the main target (audience(s)), turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought".[8]

Based on the objectives of its perpetrators the terrorism can be religious terrorism, Ideology oriented terrorism, state sponsored terrorism ethno nationalist terrorism, and narco-terrorism. India is facing major threat of various types of terrorism in different parts of the country. In India 64988

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[5] *Supra note 1, at 22.*

[6] *F.Bolz et al. The counterterrorism hand book: Tactics, Procedures And Techniques, 5 (4th edn.,).*

[7] *M.R. Ronezkowski, Terrorism and organized hate crime: Intelligence Gathering, Analysis and Investigation, 18 (2nd edn., 2007).*

[8] *Alex P Schmid, The Definition of Terrorism(ed). The Routledge Hand book of Terrorism Research.30 (2011).*

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lives including 24716 civilians 9741 security force personnel and 30531 terrorists have been lost since 1996.[9]

India being a federal country the issues pertaining to national security or homeland security is dealt with by multiple agencies at different levels. The state police are responsible for maintenance of internal law and order and state government has legislative competence for enacting legislating on law and order issues. Internal security and centre-state relations comes under the Ministry of Home Affairs or the Ministry of Internal Affairs while external security comes under the Ministry of Defence. Foreign policy formation and international security come under the Ministry of External Affairs.[10]

The Constitution of India divides legislative powers between the Union and the States. The constituent assembly, learning from the experience of USA and Canada, adopted a functional approach rather than opting for classical federalism. This approach favours flexibility rather than strict compartmentalization. Indian Constitution has adopted three way distribution of legislative powers.[11]Article 246 and the Seventh Schedule of the Indian Constitution divide the topics in three lists i.e. List I awarding power to Parliament, List II awarding power to the State legislatures and List III providing concurrent power to the Parliament and the State legislatures. Article 248 along with Entry 97 of Union list provides residuary power to the Parliament. Non Obstante clause in clause 2 and 3 of Article 246 confers predominance on Parliament in case of conflict between three lists.[12] Scheme of Constitution provide for dominance of the Union.[13]

Laws on terrorism come under multiple entries in different lists in the Schedule. 'Defence of India'. 'Armed Forces' and Preventive detention come under the Union List[14] while 'Public order' and 'Police' come under the State List.[15] 'Criminal Law', 'Preventive Detention in connection with public order' and 'Criminal Procedure', on the hand come under the

[9] *Fatalities in Terrorist Violence 1988-2016, available at: http://www.satp org/satporgtp/site.htm.*

[10] *Foreign policy formation and international security come under the Ministry of External Affairs, available at https: // www. kpmg.com /IN/ en / Issues and Insights / Though Leadership /HomelandSecurityinIndia_ASSOCHAM.PDF.*

[11] *First Commission on Centre State Relation Report. 5 (1988).*

[12] *Ld., at 8.*

[13] *Second Commission on Centre State Relation Report vol 2 28 (March, 2010).*

[14] *Entries 1, 2 and 9, List I, Schedule VII, Constitution of India, 1950.*

[15] *Entries 1 and 2, List II, Schedule VII, Constitution of India, 1950.*

Concurrent List[16]. Law Commission has also envisaged this issue of legal competence of the Centre on the ground of conflict of entries[17]. Sarkaria Commission report has discussed the demand by certain states that public order being a state subject preventive detention in Entry 3 in List III should be a state subject. Public order comprises of various type of situations. The commission did not support this suggestion on the basis of argument that Article 352 of the Constitution makes the Union responsible for the security of the union and any part of against any war, external aggression and armed rebellion. Article 355 of the Indian Constitution states that the Union has the duty to "protect every State against external aggression and internal disturbance". Further, power of preventive detention being an exception to fundamental rights guaranteed by Constitution under Articles 21 and 22, it is required to be exercised with abundant caution[18].

NATIONAL SECURITY AND ANTI-TERRORISM LAWS IN INDIA

Federal laws and legislative competence of the Union Government.

India legal system has numerous Central and State laws to deal with cases of terrorism. Federal nature of the constitution and the two tier system of governance at central and state level have led to problems based on the competence of the legislature to enact these laws. The Indian Penal Code and Code of Criminal Procedure contain certain provisions relevant to cases of terrorism. These include Section 121 IPC which talks about waging war against the Indian Government[19] Section 124A IPC that defines sedition[20]and Section 139 CrPC which specifies the power of the magistrate to direct local investigation and examination of an expert. With rise of threat of modern day terrorism, special and specific legislations to effectively deal with this grave threat have been enacted by the governments both Central and states.

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[16] *Entries 1, 2 and 3, List III, Schedule VII, Constitution of India, 1950.*

[17] *43rd Report of Law Commission of India on Offences Against National Security, 7 (1971).*

[18] *Supra note 12 at 44.*

[19] *Sec 121, Indian Penal Code 1860, (Punishable with death or life imprisonment, along with fine.*

[20] *Sec 124A Indian Penal Code 1860 (punishable with imprisonment for maximum three years or with fine or with both)*

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National Security Act, 1980

Law Commission of India recommended consolidation of various provisions to deal with crimes against national security and enact National Security Act.[21] National Security Act came into force in 1980 with the purpose of maintenance of internal security and matters connected therewith.[22]It was applicable throughout India and allowed the Central and State government to put anyone in preventive custody for a year if there was sufficient reason to believe that the person would a in any way against the defense of the country, the relationship with foreign countries or to the security of the nation.[23] to the maintenance of public order, maintenance of essential supplies and services.[24] The Act provided for Advisory Boards to approve the detentions.[25]

Terrorist and Disruptive Activities (Prevention) Act, 1985 (TADA)

In view of the increase in terrorist activities the Parliament enacted Terrorist and Disruptive Activities (Prevention) Act, 1985 (TADA).[26] The Act was initially enacted for two years and was followed by an ordinance in 1987 and Terrorist and Disruptive Activities (Prevention) Act, 1987.

It was the first act in Indian history aimed to counter organized terrorism in its present form.[27] The Act created offences of 'terrorist activities'[28] and disruptive activities.[29] The Act had provision for setting up special courts for speedy trial[30] enhanced penalties,[31]restriction on the power of court to grant bail[32] and witness protection.[33]In the case of Kartar Singh V. State of Punjab the constitutionality of TADA was questioned on the ground that the Parliament did not have the authority to legislate this Act. It was argued that

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[21] *Supra note 18, at 22.*

[22] *Combating terrorism. The legal challenge, 24.*

[23] *Sec. 3 (1) (a) NSA*

[24] *Sec. 3 (2) of NSA.*

[25] *Sec 9 of NSA.*

[26] *Supra note 1, at 35.*

[27] *A Goswami, Combating Terrorism The Legal Challenge, 25 (2002).*

[28] *Sec. 3 of TADA.*

[29] *Sec. 4 of TADA.*

[30] *Sec 9 of TADA.*

[31] *Sec. 6 of TADA.*

[32] *Sec 20 (8) of TADA.*

[33] *Sec 1 of TADA.*

such power has been given to the State Government under Entry 1 in the State List which deals with public order. The Supreme Court held that the Union Government has the power to make laws on terrorism as Entry 1 of the State List is only for less grave offences that have their impact confined to the specific State only. Offences which are more serious and threaten the integrity and security of the Union of India fall within Entry 1 of the Union List which is the defence of India and also under the residuary power of the Parliament under Article 248 read Entry 97 of List 1. The Court held that TADA had been enacted to deal with grave emergent situations which were a result of either anti-nationals threatening the sovereignty and integrity of the Union or external forces especially at the borders.[34]The operation of the Act was extended in 1989, 1991 and 1993 before finally allowing it to lapse in 1995 following allegations of its misuse. Till 1992, approximately 67,000 persons were arrested under this Act and only about 8,000 were tried in Courts and 275 convicted.[35]

Prevention of Terrorism Act (POTA), 2002

In the backdrop of Kandhar Hijacking in 1999 and Parliament attack in 2001, the Prevention of Terrorism Act (POTA), 2002 was brought into force. The bill was passed in a joint session of Parliament after rejection by Rajya Sabha[36]. There was no consensus amongst the political parties and states regarding the enactment.[37] The Act was preceded by the Prevention of Terrorism Ordinance, 2001. The Act reversed the presumption of innocence of the accused and allowed for prolonged pre-trial detentions. The Act provided for seizure and forfeiture of proceeds of terrorism,[38] setting up of special courts,[39] interception of communication,[40] admissibility of confession before police officer not below the rank of Superintendent of Police,[41] and provisions related to terrorist organizations[42]. Various state

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[34] *Kartar Singh V. State of Punjab, (1994) 3 SCC 569 (Supreme Court of India).*

[35] Basu, Routinization of the Extraordinary. *(A mapping of Security Laws in India 1, 12 (January 23, 2011) available at https: // www.academiaedu / 9384854 / Routization_of_the_ Extraordinary_A_Mapping_of_Security_Laws_in India (Last visited on May 13, 2016).*

[36] *U.K. Singh, POTA and Federatism, 39 (18) Economics and Political Weekly, 1793, (2004).*

[37] *Joint Sitting of the Houses of Parliament, Debates, I (1) 23 (March 26, 2002).*

[38] *Sec. 6 of POTA, 2002.*

[39] *Sec 23 of POTA, 2002.*

[40] *Chapter V of POTA, 2002.*

[41] *Sec 32 of POTA, 2002.*

have responded differently to this Central government enactment as certain states like Jammu and Kashmir have opted not to use the provisions and others like Tamil Nadu have used it for political purposes.[43] Conflict between the central and slate governments became evident in POTA cases against Raja Bhaiya in Uttar Pardesh and Vaiko in Tamilnadu. In POTA case against Vaiko, the Court upheld the validity of decision of Central review committee challenged by the State government.[44]

The validity of POTA was challenged in the case of People's Union for Civil Liberties v. Union of India. The Court held that the Entry 1 of the State List gave the State power to legislate only on public order and security when it affected at particular State only. Terrorism is an inter-state problem and not specific to any state. The problem of terrorism does not fit the confines of public order. The security and integrity of India which is affected by these acts instead falls under Entry I of the Union List.[45] The Act faced criticism for human rights abuse across the country and was repealed in 2004[46]. However, the investigations and legal proceedings pending under the Act were not affected by repeal. Three Review Committees were set up to review all the cases and decide whether prima facie there existed a case against the accused.[47]

Unlawful Activities Prevention Act (UAPA), 1967

At present, Unlawful Activities Prevention Act (UAPA) is the main anti terrorism law in India. The Indian Parliament enacted it in 1967 to enable reasonable restrictions on the freedom speech and expression, association or union formation and peaceful assembly in the interest of the integrity and sovereignty of India.[48] Initially the Act was only enacted to control general unlawful activities but after the repeal of POTA in 2004, stringent provisions were added through various amendments. Later, after the 2008 Mumbai terrorist attacks it was again amended and it now defines 'terrorist act' in section 15 and made provisions for new crimes to deal with terrorism. The

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[42] *Chapter III of POTA, 2002.*

[43] *Supra note 37.*

[44] *Supra note 37.*

[45] *People's Union for Civil Liberties v. Union of India, AIR (2004)SC 456 (Supreme Court of India).*

[46] *Statement of objects and Reasons Prevention of Terrorism (Repeal) Act, 2004.*

[47] *Statement of objects and Reasons Prevention of Terrorism (Repeal) Act, 2004.*

[48] *Statement of Objects and Reasons, Unlawful Activities (Prevention) Act, 2004.*

period of detention without charge sheet was increased[49] and the assumption of innocence was changed in cases where certain conditions of guilt were met[50] making it like the now repealed act, POTA. The recent amendments to UAPA have been largely related to financial and economic aspects of terrorist activities.[51] The legislation has taken into account the possibility of these acts being planned or have their funding outside the country and a person can be punished even when the offence has been committed outside the territory of India.[52] These acts despite not being conducted on Indian soil can still endanger the integrity, security, unity sovereignty or economic security of India which is the requirement under Section 15 of the act Section 1 (5) of the act is applicable to citizens outside India, persons in aircrafts and ships registered in India and person in government service, irrespective of wherever they are at the time of the commission of the offense.[53]

Armed Forces (Special Forces) Act, 1958 (AFSPA)

The Parliament has also enacted the Armed Forces (Special Forces) Act, 1958 (AFSPA) Under the Act, armed forces have been given special powers in areas that have been declared as disturbed areas. These provisions are applicable in the "States of Assam, Manipur, MeghaIaya, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram".[54]AFSPA was challenged in the Naga People's Movement of Human Rights v. Union of lndia case. The Court decided that the Act affected armed forces and their deployment which was under the Union List and residuary power.[55] Therefore the Central Government and not the State Government has the power to make laws regarding utilization of Union armed forces to assist the civil authorities for maintenance of public order.[56]

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[49] *Sec. 43D(2), Unlawful Activities (Prevention) Act, 1967.*

[50] *Sec 43 E of Unlawful Activities (Prevention) Act, 1967.*

[51] *Unlawful Activities (Prevention) Amendment Act, 2012.*

[52] *Sec. 1(4) of Unlawful Activities (Prevention) Act, 1967.*

[53] *Sec 1 (5) of Unlawful Activities (Prevention) Act, 1967.*

[54] *Sec. 1 (2) of Armed Forces (Special Forces) Act, 1967.*

[55] *Entries 2, 2A and 97 of List I. Schedule VII. Constitution of India, 1950.*

[56] *Naga People's Movement of Human Rights v. Union of India, (1998) 2 SCC 109 (Supreme Court of India).*

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State Laws and Competence of State Legislatures

In addition to the federal laws various State legislatures have enacted laws to deal with militancy and organized crime. Some examples of these are Karnathak Control or Organised Crime Act. 2000 (KCOCA), MCOCA which is applicable in Maharashtra and Delhi[57] and the Chhattisgarh Vishes Jan Suraksha Adhiniyam, 2005[58] (Chhattisgarh Special Public Safety Act, CVJSA). These enactments punish a wide variety of criminal activities including terrorism. A terrorist act can be considered an organized crime or unlawful activity making multiple and overlapping legislations unnecessary. It is difficult to define terrorist acts, organized crime or unlawful acts. State laws on organized crime cover broader objective but the provisions of these general state laws are applicable when an organized terrorist act takes place.

The validity of MCOCA was challenged in the case of Zameer Ahmed Latifur Rehman Shelkh v. State of Maharashtra on the ground that the State legislature was incompetent to enact certain provisions of the Act. The Courts held that the provisions of MCOCA were not repugnant to those of UAPA. The offence of terrorism as defined in UAPA was held to be very different from promoting insurgency which has been defined in section 2 (1) (e) of MCOCA. Thus, the question of implied repeal of MCOCA under Article 254 of the Indian Constitution does not arise as the State law was not repugnant to the Union law.[59] The Supreme Court in this case held that the two acts have different scope and ambit while MCOCA deals with the criminal activities of organized crime syndicates. UAPA, where as deals with unlawful activities and terrorism particular.[60] Provisions related to interception of communication in MCOCA were challenged in the ease of State of Maharashtra v Bharat Shanti Lal Shah, It was contested on the basis of legislative competence of the state as Entry 31 of Union List authorizes the Central Government to legislate regarding telephone, telegraph and other means of communication. The Supreme Court held the provisions of MCOCA valid citing different grounds for interception provided in the

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[57] Vide the Ministry of Home Affairs Notification No. GSR 6 (E) dated 2 January 2002, under section 2 of the Union Territories (Law) Act, 1950

[58] *Sec 1 (2) of Chhattisgarh Vishes Jan Suraksha Adhiniyam, 2005 (Chhattisgarh Special Public Safety Act) ('CVJSA').*

[59] *Zameer Ahmed Latifur Rehman Sheikh v. State of Maharashtra. (2007) (6) Bom CR 294 (Bombay High Court).*

[60] *Zameer Ahmed Latifur Rehman Sheikh v. State of Maharashtra. (2010) 5 SCC 246 (Supreme Court of India).*

Telegraph Act and MCOCA. The court held that under MCOCA interception was permitted for maintenance of public order and is related to entries 1 and 2 in the List II pertaining respectively to Public order and Police.[61] Any conflict in the lists of Schedule VII is to be resolved by applying test of pith and substance by examining the real nature of the Act under challenge.[62]

In 2009, Karnataka brought in provisions to deal with terrorism related crimes by amending KCOCA. The aim of the bill was to explicitly include under organized crime, a 'terrorist act' and allow death penalty for these acts.[63] Despite being passed in both the Houses of the State Legislature, the bill did not receive assent from the President.[64] The State wants to use KCOCA to handle terrorist offences also rather than restricting itself to other organized crimes as it may have been originally intended.

Despite there being no repugnancy it has become a conventional practice to get the assent of the President for legislations like MCOCA and KCOCA. Once the President gives his assent, the State law prevails over the Union Law, thereby allowing States to legislate on matters in the Concurrent list like criminal law, criminal procedure and evidence, even when the laws conflict with each other.

The Andhra Pradesh equivalent of the Act, APCOCA received Presidential assent and came into force in 2001 but lapsed in 2004 section 1(4) of the Act specified that it would be in force for three years only. The Andhra Pradesh Government was unsuccessful in getting it approved by the President subsequently in 2006. The Rajasthan Bill in this issue is also pending assent of the President.[65] The case of GUJCOC Bill, 2003 (Gujarat) is also similar. It was passed by the State legislature in 2004 and sent for the approval of the President. The President returned it in July, 2009 asking the State to reconsider it. The bill was resubmitted by the State without making any

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[61] *State of Maharashtra v Bharat Shanti Lal Shah. (2008) 13 SCC 5 (Supreme Court of India).*

[62] *First Commission on Center State Relation Report, 9 (1988).*

[63] *V.A. Sayeed. An Act in Question, Frontline (Sep. 12-29, 2009) available at httb: //www.frontline.in / state/html/f12619/stories/20090925261910500 htm (last visited on May12, 2016).*

[64] *M. Venkatesha, State awaiting President's nod on legislations. The New Indian Express (Banglaore, 21 May 2011) available at http: // www. newindianexpress.comstates/karnatak/ article472642eee(last visited on May 12 2016).*

[65] *R. Dhavan, Mechanism, not Terror Law, is the Answer, India Today (9 February 2009) available at http://indiatoday intoday in/story / Mechanism+not+terror+law+is+the +answer/1/27648.html (last visited on May12, 2016.*

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amendments in November, 2009.[66] The Home Minister, Govt. of India refused to recommend it for the President's assent stating that it conflicted with UAPA whicch was a Parliamentary law. The Bill was again passed in the 2015 without the required changes and renamed as GCTOC Bill. President Pranab Mukherjee sent it back to the State due to objections raised by the Ministry of Information and Technology.[67] In Malegaon blast case[68] the accused were charged under provisions of MCOCA as well as UAPA. Similarly Binayak Sen was charged under CVJSA and UAPA for his alleged links with Maoists.[69]

Additional legal provisions

Apart from the specific terror related provision certain additional legislations are generally applicable to terror related cases depending on the particular modus oprendi of the terrorist act. Laws controlling the possession and use of arms, ammunition and explosives like the Arms Act, 1956, Explosive Substances Act, 1908 and Explosives Act, 1884 are additionally used in terrorism cases as these acts usually violate laws on use, manufacture and possession of arms, ammunition or explosives. Therefore, terrorism cases often involve multitude of Central and State Acts, For example, Ajmal Kasab accused in the 26/1 in Mumbai attacks[70] was convicted under Central legislations like IPC for offences like murder. waging of war, robbery, collecting arms with the intention of waging war, wrongful confinement and criminal conspiracy; under the Arms Act 1959, the Explosive Substances 1908 and the Explosives Act 1884 for carrying and using explosives and arms and under UAPA for commission of unlawful and terrorist activities.

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[66] *V. Mohan, President stonewalls Gujarat's anti-terror law again. Times of India (28 March 2012) available at http://timeofinida.indiatime.com/india/President-stonewalls-Gujarats-anti-terror-lawagain/articleshow/12433976.coms (Last visited on May 12, 2016).*

[67] *Pranab Mukherjee has queries, Gujarat anti-terror Bill sent back. (January 29, 2016) available at http://indiaexpress.com/article/inida/india-news-india/third-presidneet-to-return-bill-pranab-has-queries-gujarat-andterror- bill-sent-back/(last visited on May 13, 2016).*

[68] *dhwi Pragaya Singh Thakur v NIA, (2014) 1 SCC 258 (Supreme Court of India)*

[69] *Vinayak Sen v State of Chhattisgarh, (2208) (1) CGLJ 127 (High Court of Chhattisgarh).*

[70] *Mohammed Ajmal Mohammed Amir Kasab v State of Maharashtra AIR 2012 SC 3565 (Supreme Court of India).*

National Agencies to Investigate Cases of National Security and Terrorism

Terrorism related cases not only involve multiple laws but also multiple investigating agencies. Such cases are investigated by either local police, specialized wings of state police or central agencies like Central Bureau of Investigation (CBI) and National Investigation Agency (NIA), and certain cases like case pertaining to blast at Hyderabad Mecca Masjid are entrusted to police, transferred to the CBI and then to the National Investigation Agency.[71] Under the Indian Constitution police is a state subject and is therefore regulated by the State laws and may have specialized units like the Anti Terrorism Squad (ATS) of the Mumbai police to deal with terrorism cases.[72] The State laws on terrorism provide these units additional investigation powers. However in the changing scenario offences related to terrorism have inter-state and international connections and state agencies may not be able to effectively handle such cases.

Central Bureau of Investigation

The CBI initially came into existence as Special Police Establishment in 1941 to investigate corruption cases pertaining to War and Supply Dept of India at the time of the Second World.The necessity of a central investigation agency for corruption cases against Central Government employee led to enactment of Delhi Special Police Establishment Act, 1946.[73] It was established at Delhi for investigation of certain offences in the union territories.[74] It was named as Central Bureau of Investigation through a resolution of the Home Ministry. In 1965 the charter of CBI was extended to include economic offences and conventional crimes.[75] The jurisdiction of CBI can be extended to investigate cases in the jurisdiction of states only after issuance of a notification by the state expressing its consent.[76] The

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[71] *NIA, Hyderabad V Devendra Gupta, (2013) SCC OnLine AP 136, (Andhra Pradesh High Court).*

[72] *Mumbai Police, 'AntiTerrorism Squad' available at*
  http://www.mahapolice.gov.in/mahapolice/jsp/temp/ats.jsp accessed 12 August 2014/(last visited on May 13,2016.

[73] *A Brief History of CBI, available at :http://cbi.nic.in/history.php/ (last visited on May 12,2016).*

[74] *Sec.3 Delhi Special Police Establishment Act,1946.*

[75] *A Brief History of CBI, available at :http://cbi.nic.in/history.php/ (last visited on May 12,2016.*

[76] *Sec. 6 of Delhi Special Police Establishment Act,1946.*

primary charter of CBI is investigation of anti corruption cases though it also Mumbai bomb blast case of 1993 and the case of the assassination of Rajiv Gandhi[77] are famous cases in which investigation was transferred to CBI.

National Investigation Agency

After 26/11 Mumbai attacks raid for a specialized central agency to deal with terror related cases was felt. The Parliament enacted the National Investigation Agency Act, 2008. The aim of the to establish a specialized agency at the national level for investigation and prosecution of terror related offences having inter-state and international connections.[78] The NIAA led to the establishment of the NIA which has been given powers to carry out investigation and prosecute scheduled offences including offences under UAPA, Chapter VI of the IPC which has offences against the State including sedition and waging war against India, SAARC Convention (Suppression of Terrorism) Act and cases pertaining to circulation of fake currency.[79] The Act specifies that after an FIR related to a Scheduled Offence is registered, the police officer must immediately send a report of the same to the State Government and the State Government in turn forwards it immediately to the Union Government[80]. The Central Government then within fifteen days decides whether the case is for investigation by NIA[81]. The Central Government can on its own ask the agency to conduct investigation into a Scheduled Offence[82]. The State police and government have to stop all investigation on the offence once it is taken over by NIA and send all information and records to the NIA[83]. The NIA may associate the State government with the investigation, or transfer the investigation back to the State government, after taking approval of Central government[84]. The NIAA authorizes the Central and State Government to set up Special Courts[85]. State

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[77] *State of Tamil Nadu through Superintendent of Police, CBI/SIT v Nalin, (1999) 5 SCC 253, (Supreme Court of India)*

[78] *Statement of Objects and Reasons, NIAA, 2008.*

[79] *Sec. 3 of National Investigation Agency Act,2008,('NIAA'), read with the Schedule.*

[80] *Sec. 6 (1) and (2) of NIAA.*

[81] *Sec. 6(3) of NIAA.*

[82] *Sec. 6(4) of NIAA.*

[83] *Sec. 6(6) of NIAA.*

[84] *Sec.7 of NIAA.*

[85] *Secs.11(1),22(1) of NIAA.*

laws like MCOCA and KCOCA also have provisions for establishment of Special Courts to conduct trial of cases under these state laws[86].

The validity of NIAA was challenged by Malegaon bomb blast case accused on the plea that the Parliament lacked the legislative competence to pass such a law. The Union Ministry had in this case handed over investigation to NIA without obtaining prior approval of the State Government. It was argued that NIA was encroaching on the working of police which was a subject under the State list. Unlike the CBI, NIA doesn't need the State Government's consent to investigate a particular case giving it enormous powers. The Bombay High Court while upholding the legality of NIAA talked about the complexity in investigation involved in inter-state terrorism cases. The Parliament had the authority to enact the Act under Entry 8 of List 1 pertaining to Central Bureau of Intelligence and Investigation[87], Entry1 and 2 pertaining respectively to Criminal law and Criminal procedure of the Concurrent list[88] and under the residuary powers given to it as this was not specifically mentioned in any of the lists. It was also held that NIA just supplements the State Government and does not encroach on their powers[89].

National Counter Terrorism Center (NCTC)

The National Counter Terrorism Center (NCTC) was proposed by Mr.P.Chidambaram, the then Home Minister to coordinate the efforts of the Union and the state in the field of anti-terrorism. This was proposed after studying the working of anti-terrorism agencies like Homeland Security in the United States. This was especially needed in the light of the Mumbai attacks in November 2008 which involved several intelligence and operational failures. The home ministry felt that States usually lack the political will to determinedly fight against terrorism.

It was supposed to work under the Intelligence Bureau (IB) to analyse intelligence regarding terrorism and related offences, to communicate threat assessments to the Center and the States, develop situation appropriate response and maintain data bases for relevant information. It would integrate

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[86] *Sec.5,6 of MCOCA and Secs 5,6 of KCOCA.*

[87] *Entry 8 of List I, Schedule VII, Constitution of India,1950.*

[88] *Entries 1 and 2 of List III, Schedule VII, Constitution of India, 1950.*

[89] *Pragyasingh Chandrapalsing Thakur v State of Maharashtra and MajorRamesh Upadhyay v Union of India, (2014) (1) Bom CR (Cri) 135 (Bombay High Court).*

terrorist and insurgent related information at all levels for undertaking counter insurgency and counter terrorism operations[90]. It would be granted the right to make arrest and conduct searches under the Unlawful Activities (Prevention) Act, 1967 without the interference of the State government. A NCTC Standing Council was proposed which will have representation from the States to ensure that no arbitrary action is taken.

However, this center is opposed by the Chief Ministers of several states as they felt that the Center will use the powers given to harass them. Even the prospect of the Standing Council has been unsuccessful in reassuring them. The partisanship and lack of integrity of the Central government and the professional ability, adequacy of training and familiarity with the local language, terrain and culture of the Central police organizations has also been questioned. The absence of legislative oversight over the conduct of the intelligence agencies has strengthened fears of arbitrary actions. If the Union Government fails to consult and convince the State then the proposal fails despite its advantages.

Conclusion

"The last end of the state is not to dominate men, nor to restrain them by fear, rather it is so to free each man from fear that he may live and act with full security and without injury to himself or his neighbor. The end of the state, I repeat, is not to make rational beings into brute beasts and machines. It is to enable their bodies and their minds to function safely. It is to lead men to live by, and to exercise, a free reason; that they may not waste their strength in hatred, anger and guile, nor act unfairly toward one another. Thus the end of the state is really liberty"[91]

Terrorism has serious consequences on human rights and the quality of life in any society. The fight against terrorism should be based on the principles of sanctity of human rights and rule of law[92]. In the garb of fight against terrorism, the state is not expected to violate human rights of its citizens.

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[90] *M.Shrivastava, RE-ENERGIZING, INDIAN INTELLIGENCE, 68 (Vij Books, New Delhi 2013).*

[91] *B.D. Spinoza THEOLOGICAL-POLITICAL TREATISE, (Jonathan Israel ed), Cambridge 2007.*

[92] *Human rights, terrorism and Counter terrorism Fact Sheet no.32 office of the UN High Commissioner for Human Rights available at* http://www.ohchr.org/Documnets/Publications/Factsheet32EN.pdf *(last visited on May 12, 2016)*

Indian constitution is federal in nature with tilt towards stronger centre to maintain integrity of the country[93] However Federalism is recognized as basic feature of the constitution[94].

The legislative response to serious issue of terrorism has been plagued by ad-hocism as evident from enactment and repeal of various laws to fight terrorism. Law Commission recommended for enactment of a comprehensive law to effectively tackle the problem of terrorism. It presented Draft Prevention of Terrorism Bill, 2000[95]. Administrative Reforms Commission also emphasized that in order to meet this grave threat of ever growing terrorism a robust framework in terms of effective laws and executive agencies is required and the issues become far more complicated in a federal polity. Model framework should iron out the conflicts and improve coordination amongst legislative and executive agencies of the centre and states.[96] Second centre state relation commission emphasized on necessity of cooperative federalism to sort out politically sensitive issues.[97] There is unanimity amongst various authorities regarding need of a comprehensive anti terror law. In India may proposed anti terror law should not be ultra vires to provisions of Constitution of India pertaining to fundamental rights and federal structure of the State.

Multiple agencies some time lead to conflicts and confusion. It results in bureaucratic infighting, coordination problems and poor resourcing of capabilities[98]. Handling of Malegaon Blast case is a perfect example of these problems. The case has been subject to trading of allegations of false implications and botched up investigation amongst different investigation agencies and political parties. It has completely eroded the faith of the public in the criminal justice system. There is a need for more transparent, fair, scientific, professional and coordinated investigation by the agencies of Centre and States.

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[93] *State of West Bengal v Union of India AIR 1963 SC 1241 (Supreme Court of India)*

[94] *S R Bommai v Union of India AIR 1994 SC 1918 (Supreme Court of India)*

[95] *173rd Report of Law Commission of India on Prevention of Terrorism Bill, 2000 (April 2000)*

[96] *Supra note 1 at 42*

[97] *Supra note 14, at 16*

[98] *Supra note 91, at 65*

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Motivational Aspects in Police Forces

ROHIT MALPANI, IPS*

Police Work tasks are diverse and require to take command, demonstrate leadership and make quick decisions on the ground. This work is done by police officers in group or by a police officer working single handedly. A great amount of reliance is placed on the high levels of motivation and professionalism of individual officers. Research has shown that highly motivated workers produce better outcomes (Whisenand and Rush, 1998; Herzberg, 2003). This paper deals with various aspects related to motivational levels among the policemen along with findings deduced keeping Kinnaur Police district, Himachal Pradesh as sample space.

1. Introduction

Motivational aspects in lower constabulary police forces are aimed at finding the factors causing motivation and demotivation in police forces in their daily working. According to various researches, motivation is directly linked to the performance of person. Thus, by promoting the factors causing motivation and removing the factors causing demotivation, the performance and efficiency of the police forces can be increased on the field. Since the performance has been directly linked to the motivation of a person, in order to improve the performance of police personnel, there is a need to study these factors in detail. The best way to find out these factors is to directly interact with the police personnel and to discuss with them informally and elaborately about the various factors which decrease/increase their efficiency. The working conditions of police personnel working on ground duty are very different from person to person. The factors causing demotivation to one person might not be demotivating at all to other person.

Superintendent of Police, District Kinnaur at Reckong Peo, Himachal Pradesh.

Rohit Malpani

2. Planning

In order to find the factors causing motivation and demotivation a four step action plan was prepared. Firstly, interaction was done with the police personnel and discussion was done regarding various factors causing demotivation and motivation. Secondly, a questionnaire based on the above discussions was prepared. Thirdly, policemen were aided in filling the questionnaire. Total 150 personnel participated in this exercise. Finally, analysis was done based on the responses of the policemen in order to find the major motivating and demotivating factors.

2.1. Identifying problems

For identifying the problems initial visits were made to Reckong Peo Police Station, Police Posts like Kalpa, Karcham and Tapri and informal meetings were held with the police men.

2.2. Framing Questionnaire

A questionnaire was framed which included all the issues which were mentioned by the policemen in the discussion.

2.3. Taking the Survey

The survey was individually conducted on each person. The survey was conducted at Police Post, Police Station, SP Office and Check Posts. Personal interaction with police personnel was important in order to receive their opinion in an unbiased manner.

2.4. Analyzing the Outcomes

The responses of the individuals were collected and the collective responses were analyzed in the system.

3. factors affecting motivation of police personnel

After the analysis of the responses of the 150 police personnel, the factors affecting the motivational aspects of police forces were identified and were broadly classified under the following categories:

3.1. Long Work Hours

Police personnel have to be ready for their duties round the clock. Long work hours, sometimes extends even to 24 hours resulting in physical and mental exhaustion. In long run it decreases their efficiency as well as

motivation, which is evident from the fact that 96 % of the men either agree or strongly agree that long work hours decrease their efficiency.

3.2. Timely Leave & Weekly Rest

Lack of leave on time has been a major cause of demotivation in the forces. Non availability of leaves in times of need has been a common grievance of the police personnel. Due to this their personal life suffers and they are not able to be present on the occasions of social gatherings in their family. This acts as a mental setback and demotivating factor in the long run for the police personnel. Approximately 66% of the forces either disagreed or strongly disagreed that they were granted their leave on time. The police personnel require at least some time which they could spend on their personal welfare (e.g. washing uniform, spending time with their family etc.) Around 96% of the forces either agreed or strongly agreed that weekly rest would lead to increase in their efficiency.

3.3. Resources

Non availability of resources unnecessarily creates roadblocks in the working of forces. This acts as a demotivating factor. The resources which were included in the survey were salary offered, availability of vehicle and fuel, reimbursement, availability of modern weapons and proper stationary, timely clearance of bills, availability of modern gadgets, and proper infrastructure of police stations, police post, quarters and barracks.

There was a mixed response whether the salary offered is adequate. Around 61% either agreed or strongly agreed whereas 39% either disagreed or strongly disagreed for the same. There was strong resentment among the forces regarding availability of vehicle and fuel. Around 91% of police personnel either disagreed or strongly disagreed to the availability of vehicle and fuel. For the medical reimbursement, while 49% either agreed or strongly agreed that they get proper reimbursement, 31% either disagreed or strongly disagreed for the same.

Around 61% either disagreed or strongly disagreed that modern weapons are available with them while 36% either agreed or strongly agreed for the same. Similar is the case of availability of stationary while 61% either disagreed or strongly disagreed that there is proper availability of stationary. On time clearance of the medical bills and TA bills was a major issue as around 77% of the police personnel either disagreed or strongly disagreed that their medical bills and TA bills were cleared on time.

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The availability of modern technology had a mixed response as 57 % either disagreed or strongly disagreed that modern technology available with them is sufficient. There is an immediate requirement for improvement of infrastructure of police station, police post, barracks and quarters as 98 % of police personnel either agreed or strongly agreed that improvement in infrastructure of police stations and police posts would act as a motivating factor. Around 62% either disagreed or strongly disagreed while around 37 % of the police personnel either agreed or strongly agreed that their living conditions as provided by the government are good.

3.4. Political Interference

Political interference in the police department has been a major cause of inducing demotivation in the police forces. The above opinion is supported by the fact that around 89% of the police personnel have either agreed or strongly agreed that there is political interference in their law and order and investigation process. A whopping 90% of the police personnel either agreed or strongly agreed that there is political interference in their posting process in the district as well as outside the district.

3.5. Role of Seniors

The role of senior officers is of huge importance when it comes to the motivation of police forces. The welfare measure taken by senior officers and their support is a source of motivation for the forces. Around 76% of the forces either agreed or strongly agreed that they can easily communicate with their senior officers. 73% of the forces either agreed or strongly agreed that their seniors are approachable and supportive.

Around 71% of the forces either agreed or strongly agreed that welfare measures are taken by the superior staff for the force (e.g. repair of quarters, barracks, facilities etc.). Behavior of senior officers in a partial manner demotivates the forces. It develops a sense of flattery among the lower officials. Around 60% of the police personnel either disagreed or strongly disagreed that their seniors are impartial. Around 81% of the police forces either agreed or strongly agreed that their achievements are appreciated by the senior officers. If work experiences are shared by senior staff (in age as well as designation) in a regular way it would immensely help in motivating the forces. Around 95% of them either agreed or strongly agreed that professional motivation classes would increase their efficiency. Welfare outlook of the senior officers towards their staff would be the biggest source

of motivation. 100% of the staff either agreed or strongly agreed that if the boss is welfare oriented towards staff then it would be a cause of motivation.

3.6. Working Condition & Growth Opportunities

Working conditions are the most important factor which affect the performance of individual and is a cause of motivation or demotivation for the police forces. The various aspects of working condition which had been covered under the survey were as follows:

Dealing hand and office plays a very important role in dealing with grievances of police personnel. The efficiency of dealing hand and office seems to be up to mark. Around 56% of the officials either agree or strongly agree whereas around 37% either disagreed or strongly disagreed for the same. Shortage of forces had been a source of all woes. Around 97% of the police personnel either agreed or strongly agreed that they are overburdened due to shortage of forces. There is no fixed time for eating food or taking rest for the forces due to which they do not feel healthy.

Lack of timely promotion has been a major source of demotivation in the police forces. Around 91% of the forces either disagreed or strongly disagreed that promotion is given on time.

After joining the service if the personnel wish to learn anything new then they can apply for the available courses. There has been a mixed response regarding the system of applying for courses and getting the desired course. Around 51% of the police personnel either agreed or strongly agreed whereas around 49% of them either disagreed or strongly disagreed for the same.

Proper arrangement is not done for the forces when they go on duty at different places. Around 85% either disagreed or strongly disagreed that their working conditions are safe and non-hazardous. There had been a lot of hue and cry about the violation of human rights by the police personnel but very less talk about the human rights of the police forces. Around 75% of police personnel either agreed or strongly agreed that their Human Rights have been violated at some or the other time during their working.

Around 55% of the police personnel either disagreed or strongly disagreed that the requirements of their job are clear while 45% either agreed or strongly agreed for the same. There is a saying popular in the department that one who knows more has to work more and one who knows nothing has to work least. Around 93% either agreed or strongly agreed that a person

who is specialized in one field is also given work of other fields which decreases its efficiency in its own specialized field.

In the words of policemen there is a vast difference in between what is taught during their training in Police Training Center and what the actual field work is. Although most of the training is physical but that too seems to be incomplete as there are no courses for driving or swimming. Around 61% of the forces either disagreed or strongly disagreed that proper training is given to them for every task. Around 63% of the police personnel either disagreed or strongly disagreed that the work distribution in the department is proper.

Rewards act as a major source of motivation for the police personnel but indistinct parameters of granting reward, incidences of granting rewards to persons having strong political links, granting reward to a different person for the same task, giving assurance but not fulfilling it, has led to the development of a common notion among the forces that awards are for those people who are either in the 'good books' of officers or they have good political links. Nevertheless when asked about the reward around 45% of the police officials asked for posting according to their choice, 34% asked for leave in reward and around 11% asked for cash in reward.

Since very few responsibilities are offered below the designation of Head Constable it was seen in few cases that lowest staff does not take the responsibility citing the reason that it is the responsibility of the seniors. There was an equal response for this issue. Around 44% of the officials (HC to Inspector) either agreed or strongly agreed and 44% disagreed or strongly disagreed while 12% were neutral for the same.

3.7. Media & Non-Governmental Organization

Media and various NGO's play a very important role in framing the public opinion. They are the ones who have to play an impartial role while displaying the good work as well as shortcomings of government machineries. They have to maintain a balance while displaying both sides of the same coin. If there is an imbalance in displaying the two then the result can be disastrous which has what happened with the police forces. The negative dogmas related to police forces which are prevailing in the society are a result of this imbalance. Around 78% of the police personnel either agreed or strongly agreed that there is an over vigilance from various agencies (e.g. media, NGO etc.). Around 85% of the police personnel responded that media depicts them in a negative shade in front of public.

3.8. Commitment (Dixit, 2010)

The police forces are exceptionally committed towards the service of public. This is evident from the fact that 100% of the police personnel strongly agreed that respect and cooperation given by public act as a huge source of motivation for them.

   Around 71% of the police personnel joined the forces for sake of earning employment. While 17% had interest in uniform or they were motivated by someone 12% joined the forces for serving the motherland. Although majority of them joined the police force for earning employment but after joining they all are devoted towards public. When asked about who is your ideal motivator or gives you strength in hard times 11% said that they are motivated by their colleagues. 13% said that their family is source of their motivation. While 37% said that they are motivated by their seniors 39% said their own pride is source of their motivation.

3.9. Issues of Females

71% of the female staff either disagreed or strongly disagreed that proper infrastructure is available according to their requirements at their workplace. Around 79% either disagreed or strongly disagreed that they have experienced improper behavior at their workplace while 21% either agreed or strongly agreed for the same. Around 93% either disagreed or strongly disagreed that proper arrangement is done for them when they go on duty to some places.

4. Remedial measures

There is an urgent need to act on the issues which have been discussed in the questionnaire. Since all the issues cannot be tackled simultaneously, some remedial measures must be taken immediately like:

 4.1   Since there is shortage of forces so in order to reduce the workload, the duties must be allotted in a shift wise manner. It must be taken care of that majority of workload should not fall on the shoulders of one single person.

 4.2   Proper promotion channel must be immediately brought into existence. There must be a fixed time period for promotion. One police personnel must receive at least 3 ranks during his entire service.

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4.3 The sanctioned strength of the forces must be immediately increased. This would reduce the workload on present forces.

4.4 Political interference in the law and order, investigation and posting process must be eliminated as soon as possible.

4.5 Sufficient resources (vehicle & fuel are immediately required) must be made available at each police station and police post. Old vehicles in the police station should be weeded out and condemnation parameters must be relaxed.

4.6 The facility of weekly rest must be implemented in an innovative way by granting leave to police personnel once in a week. This can be announced during the roll call.

4.7 The achievements of police department should be publicized on a large scale. It would help in improving the image of police force in the eyes of public. It would also help in countering the negative publicity by the media.

4.8 Recreational activities must be organized in the department in a frequent manner. This would help in relieving stress of police personnel.

4.9 Provisions for reward leave must be introduced and the reward amount must be increased.

5. Conclusion

The research has concluded that there are multifarious factors responsible for motivation levels in the lower constabulary and field police officers. It requires work at multiple levels to improve the motivation and confidence of the lower policemen. Increase in motivation will automatically help in improving the standards of decades old policing in the country and also improve the Public Service Delivery to the citizens of the country.

6. Compliance with ethical standards

6.1 FUNDING: Rs 10,000/- were provided as funding to Summer Internship Undergraduate Mr. Anubhav Sinha through NGO Rakshak Foundation, India.

6.2 CONFLICT OF INTEREST: The authors declare that they have no conflict of interest.

6.3 ETHICAL APPROVAL: Approval obtained from the Funders/Funding agency regarding the research.

6.4 INFORMED CONSENT: Since the study is done on individuals with their prior consent and anonymity, standards ofinformed consent are complied with.

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Organizational Strategies for Coping with Police Burnout in India

PROF. A.K. SAXENA*

1. Introduction :

Fishkin (1988), a Police Psychologist with 16 years of experience, has defined 'Burnout' as "The interaction of the combination of (a) pre-existing personality factors (b) life experiences (c) psychological needs and expectations and (d) environmental conditions that result in the inability to function effectively in any aspect of one's life, psychological, emotional, social, physical or occupational. It affects all aspects of a person's life".

In his book, he has enumerated the below- cited frightening consequences of police burnout.

Psychological and Emotional consequences:

- The clinical signs and symptoms of anxiety or depression are present during the acute phase of burnout.
- Psychological exhaustion including mental fatigue and significant loss of motivation
- Significantly reduced levels of tolerance for frustration and ambiguity
- A profound sense of helplessness and hopelessness regarding one's life situation.
- A feeling of doom and anxious anticipation of the future.

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- A widening gap in one's bipolar evaluations; becoming more judgmental.
- A heightened sense of cynicism and distrust of others' intentions and motivations.
- An increase in alcohol, and possibly substance abuses.
- Thoughts related to death and suicide; often followed by a feeling of profound sadness, grief and occasional tearful outburst. For some anger and rage may be displayed as an emotional defense against deeply felt feelings of sadness and the need to escape feelings of turmoil and pain.
- Fear of impulsively acting out the overload of feelings bottled-up inside.
- Irritability, aloofness, and social withdrawal.
- Profound loss of a sense of orderliness and predictability in life coupled with a resultant loss of sense of personal control and mastery over one's life.
- Occasionally, a sense of disbelief that the burnout phenomenon is occurring. These individuals often report, "I can't believe this is happening to me!"
- Despair; previously rewarding activities become lost to "just getting through each day".
- Disillusionment regarding one's life career and the world in general; a loss of spiritual values.

Physical Signs of Police Burnout

- Exhaustion; loss of energy, drive or motivation; feeling of constant lethargy. Burnout victims often complain of being tired all of the time.
- Physical illness, traumatic injury or somatic (bodily) complaint(s). The symptoms vary widely but may include mitral valve prolapsed, gastrointestinal disorders, tension headaches, chronic neck or back pain, hearing impairment, high blood pressure and possibly more severe cardiac problems, and numerous other physical disorders.
- Muscular tension
- The physiological symptoms related to depression and anxiety.

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- Sleeping difficulties such as insomnia. The sense of exhaustion is ever present, especially when awakening from the attempt to rest or sleep.
- Muscular tension and a feeling of internal pressure. Frequently pressure behind the sternum is felt in the acute phase of burnout.

Occupational/Vocational signs of Police Burnout

- Increase in the number of emotional contacts with the public; feeling loaded with frustration, anger, despair, and fear.
- Increased absenteeism, use of sick leave, vacation and holiday time and leaves of absence.
- Low level of morale, including feelings of isolation and aloneness at work. The officer won't share these feelings due to fear of peer reactions.
- Significant loss of, or reduction in, efficiency and work productivity; perceived by others as significantly reduced job performance; may be accompanied by administrative reprimands.
- Increased number of hangovers while at work.
- Overly personalizing with the job and with one's work efforts which, in burnout, are perceived as negative. Everything becomes a personal matter.

Realizing the severity of very negative consequences of burnout in Police as dealt above, the author has decided to address this issue in the context of Indian Police by raising the following questions –

- What is the concept, symptoms and consequences of Burnout?
- How does the research in India and abroad focus on Police Burnout?
- What may be practical training and organizational interventions in Indian Police to address the issue?

2. Definitions and dimensions of Burnout

Following definitions are presented in this section:

(Maslach & Jackson, 1986)

The elaborations are present in figure 1:

"A syndrome of emotional exhaustion, depersonalization, and reduced personal accomplishment that can occur among individuals who do 'people work' of some kind"

The elaborations are presented in the figure below:

Emotional Exhaustion	• Depletion of emotional resources
Depersonalization	• Development of negative, callous and cynical attitude
Reduced personal accomplishment	• Tendency to evaluate one's work negatively
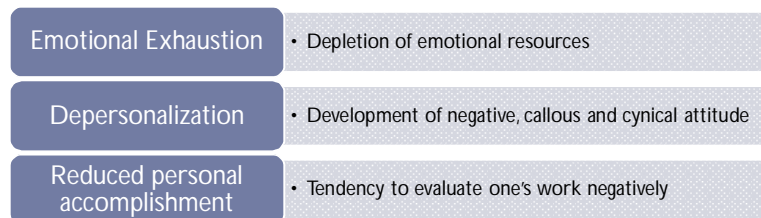
Pines & Aronson (1988) have presented a broader definition of burnout (including physical symptoms) as:

"A state of physical, emotional, and mental exhaustion caused by long-term involvement in situations that are emotionally demanding".

Concept of exhaustion has been elaborated and presented in the figure below:

Fig 2: Physical, emotional and mental exhaustion

Physical Exhaustion	Emotional Exhaustion	Mental Exhaustion
• Low energy • Chronic Fatigue • Weakness • Psychosomatic complaints	• Helplessness • Hopelessness • Entrapment	• Negative attitudes towards self, work and life
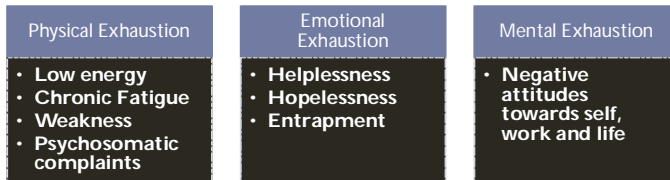
Schaufeli and Enzmenn (1988) defined burnout as:

"Burnout is a persistent, negative, work-related state of mind in 'normal' individuals that is primarily characterized by exhaustion, which is accompanied by distress, a sense of reduced effectiveness, decreased motivation, and the development of dysfunctional attitudes and behaviors at work. This psychological condition develops gradually and results from a misfit between intentions and reality at the job. Often burnout is self-

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perpetuating because of inadequate coping strategies that are associated with the syndrome."

According to Girdano et al
Manifestation of burnout in below cited 3 stages:
Figure 4: Stages of burn-out.

| STAGE 1
Stress Arousal | STAGE 2
Energy Conservation | STAGE 3
Exhaustion |
|---|---|---|
| • Irritability & anxiety
• Periods of high BP
• Bruxism
• Insomnia
• Forgetfulness/ poor concentration
• Heart palpitations
• Unusual heart rhythms
• Headaches | • Lateness for work
• Procrastination
• Excessive time-off
• Fatigue in the morning
• Social withdrawal
• Cynical attitude
• Increased substance use
• Decreased sexual desire | • Chronic sadness/ depression
• Chronic mental/ physical fatigue
• Chronic headaches
• Social Isolation |

*Any 2 of the above symptoms in any stage define the stage of burnout in the human beings.

▶

According to Cherniss (1988) "Burnout refers to a process in which the professionals' attitudes and behaviour change in negative ways in response to job strain".

Terms have been defined in the figure below:

Figure 3: Stress, Strain and Defensive Coping

STRESS	• Imbalance between resources & demands
STRAIN	• Short-term emotional tension, fatigue & exhaustion
DEFENSIVE COPING	• number of changes in attitude and behaviour, such as a tendency to treat clients in a detached and mechanical fashion, or a cynical preoccupation with gratification of one's own needs

▶
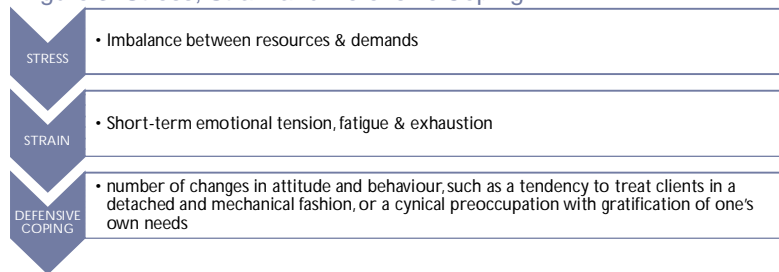
Summing up, the common elements in all the definitions presented above include the following factors as depicted below:

Common elements in definitions:
Figure 5: Common elements in the definitions.
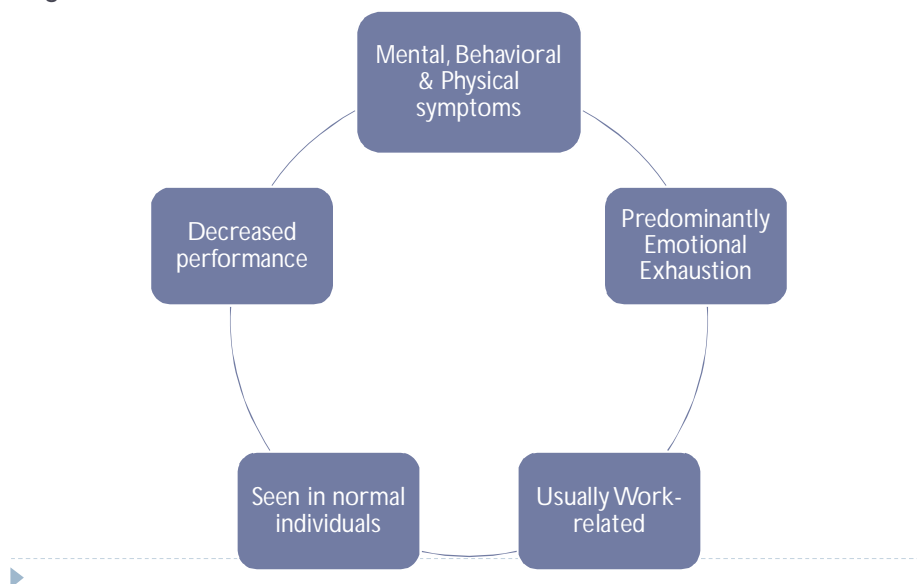
3. Research

Following research studies have focused on the concept and effects of burnout:

Maslach & Schaufeli (2001a) have identified following five common elements of burnout phenomenon:

1. There is a predominance of dysphoric symptoms such as mental or emotional exhaustion, fatigue, and depression.
2. The emphasis is on mental and behavioral symptoms more than physical ones.
3. (c)Burnout symptoms are work-related.
4. (d)The symptoms manifest themselves in "normal" persons who did not suffer from psychopathology before.
5. (e) Decreased effectiveness and work performance occur because of negative attitudes and behaviors.

(Schaufeli et al 2000) in their new study have found that burnout scores on the MBI can distinguish psychiatric outpatients diagnosed with job-related

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neurasthenia from outpatients diagnosed with other mental disorders, and that the former group shows a less pathological profile than the latter

Maslach & Schaufeli (2001) articulated that the significance of burnout, both for the individual and the workplace, lies in its links to important outcomes. Most of the outcomes that have been studied have been ones related to job performance. There has also been some attention paid to health outcomes, given that burnout is considered a stress phenomenon. The self-report measures indicated the following causal inferences

Job Performance Burnout has been associated with various forms of job withdrawal—absenteeism, intention to leave the job, and actual turnover. However, for people who stay on the job, burnout leads to lower productivity and effectiveness at work.

In terms of mental health, the link with burn out is more complex. As mentioned earlier, burnout has been linked to the personality dimension of neuroticism and the psychiatric profile of job-related neurasthenia. Such data might support the argument that burnout is itself a form of mental illness.

Quantitative job demands (e.g. too much work for the available time) have been studied by many burnout researchers, and the findings support the general notion that burnout is a response to overload. Experienced workload and time pressure are strongly and consistently related to burnout, particularly the exhaustion dimension. This pattern is found with both self-reports of experienced strain and more objective measures of demands (such as number of hours worked and number of clients). Studies of Qualitative job demands have focused primarily on role conflict and role ambiguity, both of which consistently show a moderate to high correlation with burnout. Role conflict occurs when conflicting demands at the job have to be met, whereas Role Ambiguity occurs when there is a lack of adequate information to do the job well.

Feedback: A lack of feedback is consistently related to all three dimensions of burnout. Burnout is also higher for people who have little participation in decision making. Similarly, a lack of autonomy is correlated with burnout, although the strength of the relationship is weaker.

Schaufeli & Enzemann (1998) indicated that the Profiles of law enforcement (i.e. police officers and prison guards) were characterized by comparatively high levels of cynicism and inefficacy and low levels of exhaustion.

Personality Characteristics (as reported by Masalach & Shaufeli)

Burnout is higher among people who have an external locus of control (attributing events and achievements to powerful others or to chance) rather than an internal locus of control (attributions to one's own ability and effort). In particular, confrontive coping is associated with the dimension of efficacy. In other research, all three burnout dimensions have been related to lower self-esteem. It has been argued that low levels of hardiness, poor self-esteem, an external locus of control, and an avoidant coping style typically constitute the profile of a stress-prone individual (Semmer 1996). Obviously, the results from the burnout research confirm this personality profile. Research on the Big Five personality dimensions has found that burnout is linked to the dimension of neuroticism. Neuroticism includes trait anxiety, hostility, depression, self-consciousness, and vulnerability; neurotic individuals are emotionally unstable and prone to psychological distress. The exhaustion dimension of burnout also appears to be linked to Type-A behavior (competition, time pressured lifestyle, hostility, and an excessive need for control). There are also indications that individuals who are "feeling types" rather than "thinking types" (in terms of a Jungian analysis) are more prone to burnout, especially to cynicism.

Maslach & Leiter (1997) model offered wide variety of situational co-relates by proposing six areas of work life that encompass the central relationships with burnout: workload, control, reward, community, fairness, and values.

The descriptions are as under:

Workload
A mismatch in workload is generally found as excessive overload, through the simple formula that too many demands exhaust an individual's energy to the extent that recovery becomes impossible.

Control
A mismatch in control is generally related to the inefficacy or reduced personal accomplishment aspect of burnout.

Reward
A third type of mismatch involves a lack of appropriate rewards for the work people do. Sometimes these may be insufficient financial rewards, as when people are not receiving the salary or benefits commensurate with their achievements.

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> The fourth mismatch occurs when people lose a sense of positive connection with others in the workplace.
>
> **Fairness**
>
> A serious mismatch between the person and the job occurs when there is not perceived fairness in the workplace.
>
> **Values**
>
> The sixth area of mismatch occurs when there is a conflict between values.

Saxena (2003) developed a questionnaire based on the three stages of burnout put forwarded by Girdano et al and other, It was administered on 800 Police Constables, Head Constables, Sub-Inspectors & Inspectors of police. Following were the findings of the behavioral manifestations so far as of burnout are concerned.

EFFECTS OF STRESS & BURNOUT ON POLICE CONSTABLES
- Inability to concentrate (32.1%)
- Nothing will change feeling (29.5%)
- Increased coffee and tea use (27.8%)
- Feeling that heart-beats are rapid under stress (26.3%)
- Social withdrawal (from friends and / or family) (25.7%)
- Frequent headaches (25.4%)
- Forgetfulness (23.4%)

EFFECTS OF STRESS AND BURNOUT ON HEAD CONSTABLES
- Increased coffee and tea use - 45.8%
- Chronic physical tiredness - 40.1%
- Chronic mental tiredness - 38.8%
- Decreased sexual desire - 32.8%
- Social withdrawal (from friends and / or family) - 30.7%
- Nothing will change feeling - 30.5%
- Chronic headache - 29.3%
- "I do not care attitude" - 27.0%

EFFECTS OF STRESS AND BURNOUT ON SUB-INSPECTORS
- Feeling that heart-beats are rapid under stress - 39.1%
- Decreased sexual desire - 37.7%
- Increased coffee and tea use - 34.3%
- Persistent tiredness in the mornings - 32.7%
- Forgetfulness - 31.8%

- Sleeping Problems - 30.0%
- Needing more holidays for rest - 29.6%
- Chronic mental tiredness - 27.4%
- Nothing will change feeling - 27.1%
- Social withdrawal (from friends and/or family - 24.0%

EFFECTS OF STRESS AND BURNOUT ON INSPECTORS

- Sleeping problems   - 71.0%
- Forgetfulness - 64.6%
- Chronic physical tiredness - 64.6%
- Frequent headaches - 63.0%
- Chronic headache   - 62.5%
- Inability to concentrate - 60.0%
- Chronic mental tiredness   - 58.3%
- Persistent tiredness in the mornings - 57.6%
- Increased coffee and tea use - 56.1%
- Needing more holidays for rest   - 40.0%
- Decreased sexual desire   - 37.4%
- Feeling that heart-beats are rapid under stress -33.3%
- "I do not care attitude" - 32.0%
- Chronic stomach or bowel problems - 28.1%
- Nothing will change feeling - 26.5%

Wiese, Rothmann and Storm (2003)

The objective of the research was to determine the relationship between coping, stress and burnout in the South African Police Service. A survey design was used. The study population (N = 257) consisted of police personnel in Kwazulu-Natal. The COPE, Police Stress Inventory and Maslach Burnout Inventory – General Survey (MBI-GS), were used as measuring instruments. Structural equation analysis showed that job demands (as stressors) are associated with exhaustion. Passive coping strategies contributed to exhaustion and cynicism, while seeking emotional support led to lower exhaustion. Exhaustion contributed to cynicism. Stress because of a lack of resources, active coping strategies and not coping passively seem to impact on professional efficacy.

Ranta and Sud (2008)

Police personnel as an occupation group endure particularly high levels of stress and burnout. The physiological, psychological and behavioural effects

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of stress and burnout in police can be severe, which is a matter of great concern. The manifestation of stress and burnout in the form of suicide and killings highlight the urgent need that these must be tackled. There are hundreds of exercises and techniques available to manage stress and burnout of the type experienced by police personnel. But not much effort has been made to enable the police personnel to deal with these problems. In the present study a multidimensional intervention was given to the volunteers from different ranks of police personnel (e.g. constables, head constables, assistant sub inspectors and inspectors). The control group was only exposed to physical relaxation training. Further, to assess the efficacy of these interventions, scores on all the dependent variables, taken prior to and after the intervention, have been compared. Repeated measure analysis of variance was applied. However, because of the lack of availability of this sample in future follow-up score have not been taken. RPMANOVA revealed the efficacy of multidimensional intervention in reducing job stress, emotional exhaustion and depersonalization score from pre to post assessment trials, regardless of the ranks of police personnel. All these findings have been interpreted and suggestions for future research have also been put forth.

Nicoară &Amelia (2012)

The profession of police officer has been ranked in the top ten most stressful jobs the U.S. (by The American Institute of Stress) and categorized as one of the most stressful occupations in the world (by Michael Pittaro, executive director of The Council on Alcohol and Drug Abuse in 2008, in a study on occupational stress in police), both because of the nature of police work, and because of the multiple influences associated with the work environment (Dempsey and Forst, 2009, p. 174). With this in mind, this article aimed to briefly review the issue of exhaustion of the police professional environment, addressing the manifestations of exhaustion (burnout), the causes which generate it, the consequences of professional exhaustion and the prototype of the police officer vulnerable to burnout, so that workers in this field be able to recognize it when stress is present and what it was caused by, and be able to manage it effectively, to counteract its negative consequences

Queirósa ,Kaiselerb António & Leitão da Silvac (2013)

This paper was aimed to understand the relationship between aggressivity and burnout among police officers, more precisely, it investigated whether burnout was a predictor of aggressivity among police officers. The study focused on the relationship between burnout and aggressivity, using regression analysis to identify aggressivity predictors. The Maslach Burnout Inventory was used to measure burnout, while the Aggression Questionnaire was used to measure aggressivity. A cross-sectional study collected data from 274 male police officers (from PSP – Portuguese Police of Public Security) exercising urban patrol tasks in Porto or Lisbon. Low burnout and moderate aggressivity levels were found, with positive significant correlations. Regression analysis revealed that burnout, more than socio-demographic characteristics, predicts 13% to 22% of aggressivity. In particular, feelings of high depersonalisation and low personal accomplishment were the burnout dimensions that most strongly explained anger and aggressivity, whereas emotional exhaustion only explains 4% of verbal aggression. The study highlighted the need to develop prevention strategies of stress, aiming to avoid the development of burnout as occupational chronic stress, and decreasing the risk of developing aggressivity among police officers. Despite the wide literature in the area of police officers' burnout and individual characteristics (e.g. aggressivity proneness as a personality trait), there is limited research on the relationship between burnout and aggressivity. Within democratic societies where excessive use of force by police officers is criticised, aggressivity predicted by burnout reinforces the need to prevent occupational stress that leads to burnout.

Aydin & Tekiner (2016)

Burnout, a relatively new concept, is defined as feeling cold and distant about one's job or profession due to extreme stress or low level of job satisfaction. Police profession is considered to be one of the most likely places to observe burnout for obvious reasons. There are numerous empirical studies conducted in highly stressful or dangerous professions. It was found that burnout level increased with age, lower level of job satisfaction and length of service. This study investigated also the current situation burnout among Turkish police officers using a sample surveyed in the province of Malatya. The study compared the stress and burnout levels of police employees with respect to their gender, position and length of service; and

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found that burnout level was higher among ordinary police officers, male police employees and more experienced police employees.

4. Training and Organizational Interventions

As stated earlier, burnout is a state of physical and emotional exhaustion. It may occur either when we experience long-term stress in our job or we have worked in a physically or emotionally draining role for a big time. We can experience burnout also when our efforts at work have failed to produce the results. We experience burnout if we:

- Feel that every working day is a bad day.
- Feel exhausted frequently
- Feel depressed by job
- Feel overwhelmed by responsibilities
- Engage in escapist behavior such as excessive drinking
- Have less patience with others
- Feel helpless about your life or work
- Experience psychosomatic symptoms
- Feel overworked
- Not enough work and sleep.

Analysis of research in part 3 of this paper leads to a conclusion that many police personnel experience the above-cited symptoms of burnout:
- Lower self efficiency
- Wavering self-esteem
- Lack of emotional hardiness
- Avoidant coping style of stress management
- External locus of control
- Workholism
- Type A behavior leading to faster exhaustion.
- Deprivation stress (feeling of boredom and loneliness)
- Feeling of being overloaded.

Keeping in view the above-cited description, following `training; and `organizational interventions' are recommended:
Training Interventions in Police:

Training in behavioral and others management interventions for Police should focus on –

- Improving `Self –Efficacy'
- Enhancing lower Self Esteem
- Emotional Resilience and Emotional Hardiness
- Stress Management
- Organizing self through better time management and goal setting.
- Techniques to reduce feeling of overload.
- Positive thinking and how to focus on strengths of self.
- Assertiveness
- Positive Suggestions and Affirmations.
- Training in aerobics, meditation and yogic exercises.

It is beyond the scope of this paper to describe each training intervention in details

Organizational Interventions

To control Job-Burnout, following organizational interventions deserve the attention of Police Leadership-

Research in the identification Job/Role Stressors (` Organizational Role Stress Scale (ORS) developed by Prof. Udai Pareek is recommended for such an audit)

For each job/role evolving Role-Sets/Job Profile to address the Users of:

- Role Overload.
- Role Ambiguity
- Inter role distance (To ensure work life balance and quality of life)
- Self/Role distance
- Role Ambiguity
- Interrole linkages.

Strategies for ensuring proper rest and sleep for police personnel should be evolved for checking the burnout. Those many involve

- Induction of `Shift System'
- Granting leave liberally.
- Recreation and entertainment facilities.
- Ensuring user-friendly workplaces to check exhaustion in police personnel.
- Referrals of police personal with the symptoms of degrading mental health to the psychiatrists and clinical psychologists.

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- Ensuring better interpersonal relationships bonds amongst various ranks.

5. Summing –up

In this paper, an attempt has been made to define, identify the symptoms and recommend strategies for coping with Burnout in Police. Burnout is present when physical, mental emotional tank hits zero due to overwork, role ambiguity, role overload, lack of work life balance etc. Personality factors affecting the levels of burnout in Police. These include less `Self efficacy' `Self –Esteem', `Emotional Hardiness' `internal locus of control' `Workacholism etc. A number of training and organizations interventions have been recommended on the basis of analysis of extensive research in the domains of burn-out.

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Counter -Terrorism and Community Policing

SHABIR AHMED*

This study examine the role of community policing in counter terrorism based on data collected from interviews with Police Officers working in the South East region of Turkey. This case shows that community policing programmes provide effective ways of establishing trust between police/State and citizens while over coming bilateral pre judgments, increasing citizens willingness to seek assistance from the police and preventing young people reform engaging in crime, violence and terrorist activities the result of the analysis indicate the positive role of community policing in decreasing insurgency among citizens and offers community policing as an alternate approach in the fight against terrorism.

Introduction

Terrorism is one of the most important issues for Governments and their security organizations due to its political and danger nature   for societies. To protect their countries and citizens, Govt. engages in tireless efforts to shape effective counter terrorism policies. Terrorism remains eminent threat for societies thereby keeping counter terrorism policies significant at the top of Govt. agenda. Although counter terrorism policies have brought about new burden for Govt. budgets, policy makers continue to try to minimize terrorists' attacks against their countries with sport from their citizens. As key player of the counter terrorism policies, law enforcement agencies adjust their policies and practices according to

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society's urgent needs. Terrorism as an eminent threat for democratic societies and modern governments has become the most important issue for law enforcement agencies since 9/11 and other terrorist incidents in western countries in the beginning of the 21st Centuries. All these tragic events have forced governments and their law enforcements organizations to shift their attention from local crime problems to national and international crimes problems.

Because of the terrorism immanency urgency, counter terrorism policies have gain more importance and required more Govt. resource in the last decade. Police department have to adjust their policies and strategies according to the new era, which is commonly called "the war on terror era". Thus, Police departments have started to prioritize counter terrorism policies rather than community policing programmes {Friedman and Cannon, 2007). Community Policing as a noble approach to addition policies has brought several benefits to Police department in crime fighting. Police department have started to implement preventive crime fighting strategies in ordered to develop reciprocal relationship with communities, use problem solving tactics and cooperate with all stakeholders in the community. Being proactive against crime has created fewer problems and fewer complaints from community members thereby resulting in better satisfaction and improved relationship with the Police {US Department of Justice, 1994).

Therefore. Police departments have had to trades between community policing and counter terrorism when deciding where to allocate their resources.

Community Policing

As one of the contemporary policing approaches, community policing or "community policing first emerged in the 1970s as 'community policing 'or community oriented policing". The community policing concept reaches its popularity and became a widespread term used in the criminal justice field in the late 1990s. Community policing demonstrate an inevitable shift in American policing history. Political, economic and social structures forced this change (Kappler & Gaines 2009). In the 1970s, the civil Rights movement was in full swing in the United States.People protest against the government demanding equal rights for all people, regardless of race, ethnicity or gender and an end to discrimination. In addition, intensive

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demonstrations related to the Vietnam war were taking place. When new so of the Watergate scandal broke, people lost their trust and confidence in the government. As a result, the confrontation between the police

and people in negative conditions ruined the police and public relations and created and abyss {U.S Department of justice,1973). In addition, the technological developments in police institutions and crime fighting applications weakened the face to face contact between police and the public. In order to find solutions to these problems, police departments started to adopt a community policing philosophy in their policies and practices

Several studies were conducted to define the effectiveness of these new policing practices. Foot patrols were tested in New Yark, New Jersey and Flint, Michigan, while problem solving projects were carried out in Newport News, Virginia and Houston, Texas. The results showed that community policing practices decreased the public's fear of crime and increased the public's satisfaction with police efforts {Kappler & Gaines 2009). In addition, positive developments to place in terms of Police Behavior towards the community and police officers morale and job satisfaction increased.

Trojjanowicz (1983) described community policing as a new philosophy and institutional strategy aiming to form a new partnership between Police and their community. According to this new approach, Police and community should work together to solve problems such as crime drug addiction, fear of Crime, Social and Physical disorderliness and disturbances threatening individual quality of life. In this approach, people not only to wait for Police intervention, but also handle social security problem with police by taking the initiative personally and collectively. According to the office of the community oriented policing services (COPS Office, 2011), Community policing comprises four key elements (1) community Partnership (2) Organizational transformation (3) Problems solving (4) Crime Preventive.

Community policing have become one of the most prevalent crime fighting strategies not only in United State but also in countries throughout the world (Dammer and Albanese, 2013). Police department in different countries started to use the novel policing approach in order to improve police community relation to prevent and solve security problems cooperatively and collaboratively with the public.

Counter- Terrorism Policies

The literature defines two main policies in combating terrorism Two Strategies are described under different dichotomies-namely "war on terror-criminal justice model" (Crekubsten, 2014)! "hard power-soft power" (Nye, 2011), "realism-idealism" (Sandole, 2010), and fighting against terrorist-fighting against terrorism" (Bal-2002). The frontline combat methods represent harsh and repressive strategies intensively applied by the military police, and intelligence service, Maltreatment, human right violations, unlawful practices and unsolved murders are very common in hard power policies. In fact, governments consciously close their eyes so as not to see antidemocratic applications. Struggles against terrorists or terrorist organizations are the focal point, and fighting the ideology of terrorism and the factors fostering and deteriorating the problem are neglected. Social, economic, political, cultural and historical cause/arguments that are likely to trigger the terrorism are not considered. Both the terrorists and the sympathizers are categorized as "enemies". Each terrorist attack breeds new harsher security precautions or operations. Such hard power strategies usually lead to negative outcomes-that is, increasing terrorist activities- as the terrorist organizations use the illegalities as a tool for anti-propaganda against the community (Ekici, 2010; Sandole, 2010; Teymur, 2007).

The best way to combat terrorism is by fighting against both terrorist organizations and the ideology of terrorism. By staying in a frame of democracy and following the rule of law, government can establish. special forces and equip them with modern equipment and high technology weapons under the title of counterterrorism. For example, governments can strengthen their intelligence services, use drones, take measures to cut the financial support of illegal organizations and enact essential legislation for counterterrorism. Focusing exclusively on fighting terrorist is wrong while focusing only on fighting terrorism is inadequate and deficient give that the terrorist organization will try to show soft power applications as weaknesses of the governments. Terrorist organizations try to introduce idealistic and excessively accommodating approaches as their success achieved through their fight (Bal, 2006). Hence, there is a risk of losing community support for the government. Hard power strategies, as long as they remain in the frame of democracy, are a sort of insurance and a protective shield for long term soft power, practices. Nevertheless

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Combating the ideology of terrorism (i.e soft power policies) should be the priority of the government. As defined by Nye (2011), smart power seems the best strategy in counterterrorism which requires the ability to combine hard power and soft power strategies effectively.

Community Policing in Counter-Terrorism

Under the soft power policies at the macro level, community policing is an extremely effective option at the local level. During the last few decades, as scholars effective options at the local level. During the last few decades, as scholars have claimed tht this philosophy give more chances for police to counter terrorism, Police practitioners have sought to conduct projects to confirm this idea. For example Pickering et al. (2008) interviewed and surveyed Police Officers, community representatives and ordinary citizens toexplore the role of community policing in combating terrorism in the State of Victoria in Australia according to their results, most informants perceived comminuting policing to be an important tool in counter terrorism. Citizens are satisfied with the work of multicultural liaison officers and believe that community policing programmes improve the trust between the Police and the community as well as strengthen the legitimacy of Police. People have also suggested that Police should boost their cultural literacy.

Several examples illustrate the positive results of the Turkish version of community policing programmes implemented to fight terrorism. Dikici (2008) studied community policing projects conducted between 2002 & 2006 in Sanliurfa, one of the cities of South Eastern, Turkey. He found that 12 out of 50 parents with whom Police experts intensively made contact persuaded their sons/daughters who were among the active armed militants to surrender. Fifty• five guttersnipes were saved from street and illegalities and guided to school or a profession by means of an educational project. Among 80 drug addicted juveniles, 71 were recovered via another project. In general, crime rates committed by youths decreased by 57 percent and victimized youth rates diminished by 43 percent from 2002 to 2006. Alkan (2009) mentioned one program involving intensive negotiations with parents of armed PKK militants; 64 militants capitulated as a result of the programme carried out through 2006 and 2007.

Community policing programs in counter terrorism have largely satisfied the police and security bureaucracy. However, it is not free from problems

and criticisms. Not all police officers ·and divisions believe in the usefulness of the programs or support them. The lack of information and police officers' prejudices sometimes upset the applecart by mistake (Gozubenli & Akbas, 2009). In addition, officers from other public sectors and the local community may not be fully ready to participate in the community policing programs due to previous negative experiences and fear of the PKK. Duran (2008),, pointed out the lack of a comprehensive and systematic approach in community policing projects conducted to combat terrorism in general"

Adolescents and Caste Violence with a Special Focus on Ramanathapuram District a Case Study

SARVESH RAJ, IPS* & AMANAT MANN, IPS*

Crime and the etiology of crime have always baffled the social scientists and criminologists world over since time immemorial. There have been umpteen numbers of research articles and scientific papers correlating the influence of age factor on crime trend. More specifically, the focus and emphasis has been on the adolescent age group, as criminologists too believed in the phrase "catch them young". According to Professor [1]ArieKruglanski of the University of Maryland, adolescents "are often said to be gullible and naive, tending to think in categorical terms - good or bad, strong or weak. That black-and-white mentality simply makes them see violence - which is innate in humans - as the only solution to the perceived problem". According to some evolutionary scientists, violence is an integral and innate part of our genes, meaning that the human beings have a predilection for violence. Therefore the society, its religions and even our civilizations aimed at controlling these anomic human tendencies, especially in the adolescents.

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*2013, Batch T.N Cadre.

[1]*Professor Arie Kruglanski states: As concerns substance, the appeal of ideologies frequently stems from their identification of a collective grievance which resolute confrontation offers an opportunity for glory. The grievance component refers to a real or imagined injustice suffered by a group or a category of people (denial of respect, of dignity, of rights, of land, of religious or national freedom, etc.). This may bring about frustration, anger and a sense of hopelessness motivating those who perceive themselves as victims to embrace an ideology promising to redress the grievance.*

Prevalent culture provides a sense of identity and enables its people to feel that they are part of something bigger and develops a sense of oneness, community and belongingness.

On a global level, this problem of adolescents suffering from identity crisis is increasingly manifested in the way terrorists' organizations are attracting and recruiting more sympathizers from the western world. This has forced a re-think on the theory that poverty and scarcity only coerce people to take up terrorism. On the contrary, in the[2] lone-wolf styled attacks that are on the rise in recent years, the perpetrators have actually never met any handler from the Islamic State (IS), but were simply influenced by the propaganda, the ideology and the literature available online. Majority of those who are falling prey to this radicalization program belong to the adolescent age group. Even the terrorists' organizations are driven by the phrase "catch them young".

Ramanathapuram: *Caste based violence*

Drawing a parallel, this author has made an effort to micro-analyze the problem of juvenile and adolescent delinquency in Ramanathapuram district. This article is an account of some of the personal and professional experiences of this author, while holding the position of sub-divisional police officer. A short account on the profile of Ramanathapuram district will help the reader to understand the thesis of this essay more comprehensively. Ramanathapuram is a coastal district in the southern part of Tamil Nadu. It has a population density of 320 people per square kilometer and a literacy rate of 81.48%. Ramanathapuram has 76.39% Hindus, 19.71% Muslims, 3.08% Christians, 0.01% Sikhs, 0.79% following other religions and 0.01% following no religion. Ervadidargah is a major Islamic pilgrimage center located 27 km from Ramanathapuram where Muslims from across the world come for Ziyarat (spiritual visit). Rameswaram is also a holy place known to Hindus as a center of pilgrimage for Shiva and Rama.

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[2]*A successful lone-wolf style bomb attack at Manchester Arena by Salman Abedi, targeting young people attending an Ariana Grande concert, killed 22 in 2017. Another two attempted bombings occurred this year when Adam Dzaziri drove a gar packed with a gas canister and weapons at police on the Champs Elysees in Paris. Another jihadi, Oussama Zariouh, was shot dead by police while trying to carry out a suicide bombing on the subway in Brussels.*

Ramanathapuram is no stranger to violence and has been plagued by communal riots and caste clashes. The 1957 Ramnad riots in and around the area of Mudukulathur, between Devars ,Nadars and Devandrars is one such example. The Ramnad riots of 1998 between Thevars and Pallars and the[3] Paramakudi riots of 2011 are other noteworthy mentions. Even in times of peace, there is always a perceptible, underlying tension that inconveniently prevails in the day-to-day lives of the people here. Stray incidents of communal and caste related violence happen almost every month and the uneasy calm which exists here is because of the overbearing presence of police and the fear of retribution.

In most other states, vote-bank politics is one of the major reasons for communal and caste clashes and it is believed that until such time this dirty politicking comes to an end, there can be no end to such orchestrated violence. However in the state of Tamil Nadu politics is not solely governed by caste dynamics. Over the years these poll promises have been delivered, if not in full then definitely to a large extent, thus making the state as one of the most developed in the country. Public order is disrupted frequently by the deviant minds as they have nothing to lose; contrarily by brewing trouble there is a fair chance for the miscreants to gain something in terms of money, recognition, caste polarization and opportunities to be a caste leader.

Most of the Southern districts, when compared to the Western, Northern and Central districts of the state, experience limited industrial development and abysmal employment rate. Traditional occupations like fishing, weaving, and agricultural labor are small-scale subsistence based employment that does not lead to significant earnings. More importantly all the traditional occupations were organized heavily on caste lines. It is only the modern merit based industrial and information technology employment that has removed these caste divides at the workplace. In the absence of a narrative of development and modern industrial advancement, traditional occupations tend to perpetuate the deep caste divide further. For want of a prominent societal identity, most people tend to deviate towards other

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[3]*The riots were held in response to the detention of Tamizhaga Makkal Munnetra Kazhagam (TMMK) leader John Pandian who was detained while heading to Paramakudi to commemorate the 54th death anniversary of Immanuvel Devendrar, a revolutionary leader from Pallar caste. On the second day of rioting, 11 September, five rioters were killed and 50 injured. Two later died of their injuries. Hundreds policemen were injured.*

dubious methods like identifying strongly and passionately with their caste or religion.

Ramnad police subdivision has witnessed a stark increase in caste-based violence by adolescents. The statistics bear witness to this phenomenon:

S. No	Year	Total Suspects	Age group (16-26 years)	%of offence committed by suspects aged 16-26
1	2014	9198	4139	45%
2	2015	14253	6271	44%
3	2016	12655	5442 (up to June 2016)	43%

Correlation of identity and crime among adolescents

One's association with his/her caste as a means of gaining an identity starts early in life especially at schools, where teenagers are seen wearing different colored bands/bracelets denoting their castes. Students also wear lockets with photographs of leaders representing their castes. [4]K.Kamaraj lockets are popular among Nadar students; the Thevars wear lockets with photographs of U. Muthuramalingam Thevar, a veteran political leader for Thevars. In southern Tamil Nadu known for violent caste conflicts between OBCs and Dalits, these wrist-bands are markers that tell children who is a friend, who isn't. Though there are no written rules, students usually know their 'colors' by the time they reach high school thereby setting unhealthy trends at a young age. Secular role models appear to be almost non-existent in these areas. For instance, APJ Abdul Kalam, although revered across the entire nation, is definitely not as popular as the caste leaders in this district.

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[4]*Kumaraswami Kamaraj (b. 15 July 1903– d. 2 October 1975), was a leader of the Indian National Congress (INC), widely acknowledged as the "Kingmaker" in Indian politics during the 1960s. He served as INC president for four years between 1964-1967 and was responsible for the elevation of Lal Bahadur Shastri to the position of Prime Minister of India after Indira Gandhi turned down the same at the time of Jawaharlal Nehru's death. Although he was a national level leader and has participated actively in India's struggle for independence, he is now conveniently used as a figure of caste superiority, ideals which he never espoused in his lifetime.*

As movies are taken very seriously by the Tamil population, how the films project the caste element too becomes very important. A case in point is the movie titled Kongam. This movie glorified the Thevar community that is often found embroiled in violence. This movie has been in the eye of the storm as it depicts the decades-old animosity between caste Hindus and Scheduled Castes in Ramanathapuram district, which has a chequered history of caste clashes. Other controversial movies in this regard include ThevarMagan, Natamai, etc. that further perpetuate caste-identity.

Possible Solutions

When we start to search for solutions to the increasing caste related crime rate among adolescents, there emerge several possible solutions. One of the long-term solutions to this problem in my opinion is to do with the ethos and beliefs of the people. This sort of a solution is difficult to implement because of its intangible character and organizational complacency. A model of crime prevention based on development can take humongous amounts of funding and still might not yield the desired results. However, changing the mindset of the people and conditioning them at an early age is something that can provide immense results. One case in point here is the famous "[5]Boston miracle" in the early 90s. During this programme, the Boston Police Department involved youngsters in a dialogue to end gang wars that took many lives in the city. It started constructive youth programmes and also involved mediators in solving problems between rival gangs. This led to a rapid decrease in violence during the period with not a single death occurring for over a year.

   The concept of the "American Dream" as an idea for positive identity deserves mention here. Tuslow Adams in 1931 drew upon this concept and defined it. Over the years, the American Dream has become a sort of national ethos. Ideals like freedom, ability to work hard, social mobility, opportunity for prosperity and success became something that came to define the America of the 20th century. The average middle class American did everything in his power to work hard to be able to get a good job, own his own home and be able to buy the goods he needs.

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[5]*Boston miracle involved reaching out via a respected community leader-a bargain to young people involved in gangs. Accepting the bargain would provide the youth with the means to leave the gang: more support in school, access to jobs, afterschool programs, and so forth.*

There can be ways for the government to come up with a similar concept, adapted to the cultural ethos of the people for the place where it is to be applied to provide an alternate narrative for adolescents. This concept can help greatly in providing the adolescents a notion of identity as they can turn to something positive to identify themselves with instead of getting caught up in the destructive caste based divisions that ultimately lead to violence. The important thing in this regard is to have a clean and simple message that can be repeatedly advertised at all sorts of different forums. There are not many avenues available for the youth to expend their energy and mental faculties in a town like Ramnad.

The reason why most small towns and districts witness caste-based violence and big cities and metropolitan cities do not is that life in cities is focused on gaining upward mobility. Also, cultural and caste barriers dissolve and people start to become more and more cosmopolitan gaining multiple identities related to their personalities, profession or their monetary worth. Because it is difficult to get that level of development in a town like Ramnad instantaneously, the other alternative is to look for ways to provide an identity to the youth of this town that keeps them from experimenting with the more negative aspects of life like drugs, crime and violence.

The Police Department can do significant things on this front because of the visibility and respect it enjoys among the normal public. A message coming from this organ of the government is bound to be taken with a level of seriousness and legitimacy and can also help bridge the trust deficit with the police. This can become a sort of preventive crime control for caste based violence.

One way to do this is to come up with a catchy message or slogan that is employed throughout the district by the administration as well as the police that gives those belonging to this area a different identity. For instance, a positive message like "Unity is strength" representing the fact that caste based divisiveness leads to weakness and strife while unity leads to a strengthened, more developed way of life can help in bringing home the message effectively. The fact that school going children are the ones who figure high on the list of those committing caste based violence is an important factor. Most children in the age group of 13 to 18 can be effectively reached by conducting programmes in schools. An activity based model where the students are involved after school hours can help in bringing about an effective change in the way they think and behave. The

idea of involving students is that once they have something constructive to participate in, they would be turned away from futile and destructive pursuits. If police officials are involved personally in visiting educational institutes and driving home the message, it can have a much greater and wider impact.

For starters, the following can be done to give this programme a direction that can be later modified to suit different needs.

- A catchy message or slogan can be advertised and used in all governmental schemes cutting across all departments including the police department. Elocution competitions can be held among the school students where caste problems and communal disharmony are attacked head on. The topics for such elocution competitions can aim at asking questions and generating answers from within the community instead of providing ready-made or tailor-made solutions. Such an exercise will force participants to really ponder on the truth of caste history instead of blindly accepting prevalent notions without questioning them.

- Another aspect would be to strive to include important personalities whose word would have a bearing on the community. The Police Department by virtue of its position in the society has access to prominent people and can successfully ensure that such people can be brought in.

- Another way the Police Department can be closely involved with the youth and bridge the gap that exists between the government and the public would be to organize a Youth Club dedicated to helping students. Although a Boys' Club already exists in my district with a monthly sanctioned fund of Rs 2000, it is more or less defunct with no clear direction. This Club could be placed under the guidance of the DSyP of the Armed Reserve who would provide much needed mentorship and guidance to those wishing to appear for various police or defence services related exams. In this way, the already existing infrastructure available at the local stadium or ground can be modified to suit the requirements of the preparation needed for such exams.This can helpimprove the image of the police as the public and the police start to become much more closely intertwined by participating jointly in activities.

- *Case in point: Water digging programme by Ramnad Police:* One successful example of such an activity that was conducted experimentally is the [6]well-digging programme in Ramnad in which the police department along with volunteers from the community participated in digging of wells in order to find a solution the water-scarcity problem affecting Ramnad. This helped in massive positive coverage from the media as well as helped channel the energies of the community positively. The youth involved in this activity learned important leadership skills and gained immense respect from their community as they helped make water available in a number of areas. When these events include the involvement of senior police officials, there would be a certain amount of pride associated with these events that can help attract much needed attention to this topic and start conversations in the public as well as the media. Although no formal statistical analysis was conducted at the time as it was too short a time period for any relevant analysis, it was generally observed that incidents related to caste violence did seem to come down during this period.

One important aspect of such a programmeis its institutionalization. The second would be the kind of branding it has so as to be able to amass a good perception among adolescents. In such a programme, it is also essential that the inputs of the public be included to formulate the organization of activities so that it truly becomes a community programme having the ownership of the community. A Board consisting of district officials and some members of the public could have frequent meetings to decide on the different activities to be undertaken. While designing any future programme, it could have the twin-fold objectives of:

1) A preventive aspect of maintaining communal harmony and acting as a preventive check on such incidents.
2) A constructive aspect aimed at the development of the youth.

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[6]*With the help of the district administration, police were taking steps to dig ring wells in the ponds to address the water problem for the time being. The Ramnad Police have also tied up with the Rotary club, Rotary club of Golden Ramnad and managements of National Academy, Indian School, Syed Ammal Engineering College, Islamic Matriculation School, Erwadi Dargah Committee and Erwadi MakkalIyakkam to remove the seemaikaruvelam trees which is related to the water scarcity problem.*

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Conclusion

The concept of community policing also deserves a mention here. It cannot be disputed that barring crimes of passion or spontaneous crimes, most planned crime generally spawns from a sense of alienation, social isolation or perceived or actual injustice. According to some sociological concepts, when there is a low degree of integration of values among a group of people, in this case, the police and the public, a sense of alienation is bound to arise in the social framework. The members of the police come from similar backgrounds as the general public, but somehow lose their sense of association with the society to a certain extent and over time, some of them even tend to switch off from the emotional and psychological aspects associated with their jobs. Criminals and victims alike are both dismissed as facts and figures and a sense of empathy is lost in the process. It thus becomes important to try to change the way policing is done so that it becomes real crime prevention and detection instead of being reduced to mere firefighting. Although the Indian Police system is massive and consists of deeply entrenched colonial values that are almost impossible to shake off in one day, attempting to make slight but significant changes at individual levels can go a long way in gradually transforming the way we think about policing.

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Book Review:
Designing Human Resource Management Systems – A Leader's Guide

PROF. A.K. SAXENA*

Author	: Jayant Mukherjee
Publisher	: Sage Publications
Year of Publication	: 2012
Pages	: 314
Price	: Rs.575 (Paper Bound)

A Police Leader is required to design appropriate Human Resource Management Systems to make the Police Organization a vibrant organization to resonate with the needs of the Society. In the nutshell, the Police Management is mainly the Management of Human Resources.

The book under review has been written by Prof. Jayant Mukherjee, who is presently the Director of Training at the National Institute of Rural Development (NIRD), Hyderabad, India. He is an alumnus of IIM Ahmedabad and of the Institute of Technology, Banaras Hindu University, and Varanasi, India.

The book covers the following domains of HRM intensively with a view to design the proactive -interactive HRM frameworks for application in various organizations:

Professor (Retd.) SVP National Police Academy Hyderabad.

Job Analysis	-	How to prepare job descriptions and job specifications? 4Examples have been provided.
Human Resource Planning	-	What is demand and supply estimation including internal and external supply estimation? A practical guide to Human Resource Planning is presented very effectively by providing many tools and techniques for:

– Organizational manpower estimation
– Age group analysis
– Length of service analysis
– Basic framework for building up action plans.
  Enough light has been thrown also on the methodology of HRD Audit and Review.

Recruitment and Selection	-	Modern Methods of recruitment and selection have been discussed with appropriate case studies /examples.
Performance Management System	-	How to Plan, Manage and Review the performance of the employees? How to prepare a performance improvement plan? Practical guidelines on creation of performance culture, planning, managing and reviewing performance; and

Prof. A.K. Saxena

		Performance Management System (PMS) legal issues have been covered.
Training and Development	-	Themes related to Training and Development Policy, Training Feedback, Design and Implementation of T & D Programmes have been covered very effectively.
360 Degrees Feedback	-	Issues related to organizational readiness and implementation of 360 Degree feedback system have been discussed with appropriate examples.
Mentoring and Executive Coaching	-	These processes are described as development tools for the employees.
Reward Management	-	Guidelines for effective `Reward Management' have been covered at length
HR Policies and Procedures	-	The highlights of the theme focus on:

- Guidelines for drafting policies and procedures
- Sample policies and procedures
- Employee manuals.

The book may be extremely useful for the Police leaders in the development of HRM Systems:

- Preparation of Job Description and Job Specification for each rank in Police. This data will be useful in designing training and recruitment in a better way.
- Evolving scientific way of `Manpower planning' in Police.
- Designing Performance Management Systems in Police more effectively.
- Evolving Training and Development Policy and better post training evaluation framework.
- Training Police Leadership in Mentoring and Coaching procedures for developing subordinate ranks.
- Documenting all exiting excellent HRM practices in Police.

Other salient features of the book include the inclusion of Tools, Questionnaires, Inventories & Key Terms and Concepts. Research is interwoven in the fabric of theory and concepts. Extensive bibliographies are presented.

Both the binding and printing of book by "Sage" are praiseworthy.

In the Basic Course for the Gazetted Ranks in Police, this book may be prescribed in for covering the various Human Research Management issues in Police. For In-Service Courses to have debate on the issues like `Performance Management System', `HR Policies', `360 Degree Feedback', `Reward Management' and `Recruitment System in Police' this book may be referred.